

**Malaysia**

A decorative graphic consisting of several parallel diagonal stripes in shades of gray, located on the right side of the dark horizontal band.

# Malaysia

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## Part 1: Overview of Malaysia

### A. Country Background

Malaysia Facts	
Geographical size	329,758 sq km
Population	30.4 million
Ethnic breakdown	Main ethnic groups: Bumiputera (Malays and other non-Malay indigenous peoples) – 61.9% Chinese – 22.6% Indian – 6.7%
Official language	Bahasa Malaysia
Literacy rate	93.1%
Life expectancy	73.8
GDP	US\$336.913 billion (per capita est US\$11,062.04)
Government	Federal representative democratic constitutional monarchy modelled on the Westminster parliamentary system. Bicameral parliament consists of the House of Representatives and the Senate.
Political and social situation	Supposed separation of powers of the executive, judicial, and legislative branches is counteracted by executive influence over the appointment of court judges and the Election Commission, thus precluding free and fair elections.

Malaysia is the only federation in Southeast Asia and consists of the Peninsular and East Malaysia, separated by the South China Sea. Established in 1963, it is made up of eleven states in the former and Sabah and Sarawak in the latter. Nowadays, the nation still comprises thirteen states but within are three federal territories occupying a total landmass of 329,758 square kilometres.<sup>1</sup>

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<sup>1</sup> 'Malaysia' Nations Encyclopedia, available at <http://www.nationsencyclopedia.com/economies/Asia-and-the-Pacific/Malaysia.html>, accessed on 20 August 2015.

Malaysia's population grew from a mere 8.2 million in 1960 to the current estimate of 30.4 million in 2014, an increase of 271% in the last 55 years. Population growth rate was recorded at a high of 3.29% in 1961 but has since dipped to 1.58% in 2015. As of the beginning of 2015, 29.6% of the total population is below 15 years old, 5% are above 64, with the rest falling within the 15-64 age range.<sup>2</sup>

Malaysia's population is made up of more than 70 identified ethnic groups, generally categorized into four main groups: 'Bumiputera' (61.9%), Chinese (22.6%), Indian (6.7%), and 'Others'.<sup>3</sup> Bumiputera is a status accorded to Malays and other non-Malay indigenous peoples, the members of which enjoy special benefits under various government-implemented policies and the Constitution. Malays and non-Malay Bumiputeras account for 50.1% and about 11.8% of the current total population respectively. The latter are predominantly natives making up two-thirds of Sabah and over half the total population of Sarawak. This sector continues to experience an upward trend due primarily to high fertility and birth rates. Aboriginal groups, collectively known as the 'Orang Asli,' account for much smaller numbers in Peninsular Malaysia. Finally, the annual growth rate of the 'Others' category (comprised of other minority ethnic and non-citizens) has increased from 1.5% in 1970 to 10.0% in 2010, mainly due to an influx of migrant workers.<sup>4</sup>

The national and official language of Malaysia is Bahasa Malaysia, a compulsory subject in primary and secondary schools. Some of the other languages or dialects spoken include English, Mandarin, Cantonese, Hakka, Hainan, Foochow, Tamil, Telugu, Malayalam, and Panjabi. In addition, other languages are used by the indigenous populations of Orang Asli and the natives of Sabah and Sarawak. For example, among the Dayaks of Sarawak and the Kadazans of Sabah, the most widely spoken language in East Malaysia is actually Iban.

Gross Domestic Product (GDP) for 2014 was US\$336.913 billion due to the country's reported growth rate of 6.0%, while the GDP per capita in 2014 was US\$11,062.04. According to the Malaysian Department of Statistics, the unemployment rate was reported to be 3.1% as of June 2015 while current Prime Minister (PM), Najib Razak, puts the number of those living below the poverty line at only 1% of the total population.<sup>5</sup>

2 'Malaysia population clock' Country Meters, available at <http://countrymeters.info/en/Malaysia>, accessed on 20 August 2015.

3 'Malaysia population' Trading Economics, available at <http://www.tradingeconomics.com/malaysia/population>, accessed on 20 August 2016.

4 'Malaysia demographics profile 2014' Index Mundi, available at [http://www.indexmundi.com/malaysia/demographics\\_profile.html](http://www.indexmundi.com/malaysia/demographics_profile.html), accessed on 20 August 2015; Madam Zarinah Mahari, Demographic Transition in Malaysia: The Changing Roles of Women, Department of Statistics, available at [http://www.cwsc2011.gov.in/papers/demographic\\_transitions/Paper\\_1.pdf](http://www.cwsc2011.gov.in/papers/demographic_transitions/Paper_1.pdf), accessed on 20 August 2015.

5 Report for selected country: Malaysia' International Monetary Fund, available at <http://www.imf.org/external/pubs/ft/weo/2014/02/weodata/weorept.aspx?sy=2012&ey=2019&scsm=1&ssd=1&sort=country&ds=.&br=1&pr1.x=15&pr1.y=5&c=548&s=NGDPD%2CNGDPDPC%2CPPPDP%2CPPPDP%2CPPPDP&grp=0&a=>, accessed on 20 August 2015; 'Najib's TV interview: the full transcript' Astro Awani, available at <http://english.astroawani.com/malaysia-news/najibs-tv-interview-full-transcript-57512>, accessed on 20 August 2015.

### *System of governance*

Malaysia practices a federal representative democratic constitutional monarchy where the King (Yang di Pertuan Agong) is the head of state and the Prime Minister is the head of government.<sup>6</sup> As a legacy of British colonial rule, the system of governance is closely modelled on the Westminster parliamentary system. The bicameral parliament consists of the House of Representatives and the Senate. Following a general election in 2013, the current House of Representatives is comprised of 222 members elected from single member constituencies, using a first-past-the-post system. General elections are held every five years.

### *Political and social situation*

Although according to the Federal Constitution, the government has supposedly adopted the principle of separation of powers (consisting of the executive, the judiciary and the legislative), in practice, the executive maintains a disturbing level of influence over the appointment of court judges. Accordingly, the Judicial Appointments Commission assists the Prime Minister in advising the King on such matters. Furthermore, it is the Prime Minister (as part of the executive) who holds the ultimate power to decide or approve appointment of every Superior Court judge, the Chief Justice, the President of the Court of Appeal, and the Chief Judge.<sup>7</sup>

Executive power extends even to the likes of the Election Commission. Supposed to be free and independent, its members are appointed by the King upon advice of the Prime Minister, leading some to argue the Commission is necessarily biased, thus tainting the electoral system and leaving it unable to conduct free and fair elections.<sup>8</sup>

## ***B. International Human Rights Commitments and Obligations***

Malaysia is an active member of many intergovernmental processes but its commitment to international treaties has been dismal. Presently a member of the UN Security Council, it has been active in the UN Human Rights Council for several terms in the last few years. Despite many calls by member nations for Malaysia to ratify more core treaties during the UN Universal Periodic Review (UPR), it has acceded to only three of the core human rights treaties and accepted only two out of the three optional protocols under the Convention on the Rights of the Child (see Table 1 below).

6 'Comment: the Yang DI-Pertuan Agong's prerogative in the appointment of the Prime Minister' The Malaysian Bar, available at [http://www.malaysianbar.org.my/constitutional\\_law/comment\\_the\\_yang\\_di\\_pertuan\\_agongs\\_prerogative\\_in\\_the\\_appointment\\_of\\_the\\_prime\\_minister.html](http://www.malaysianbar.org.my/constitutional_law/comment_the_yang_di_pertuan_agongs_prerogative_in_the_appointment_of_the_prime_minister.html), accessed on 20 August 2015; 'Malaysia' The Federation of International Trade Associations, available at [http://www.fita.org/countries/malaysia.html?ma\\_rubrique=cadre](http://www.fita.org/countries/malaysia.html?ma_rubrique=cadre), accessed on 20 August 2015.

7 'My constitution: judges and judiciary' The Malaysian Bar, available at [http://www.malaysianbar.org.my/constitutional\\_law\\_committee/my\\_constitution\\_judges\\_and\\_the\\_judiciary.html](http://www.malaysianbar.org.my/constitutional_law_committee/my_constitution_judges_and_the_judiciary.html), accessed on 21 August 2015.

8 'Executive summary: human rights and election' The Malaysian Bar, available at [http://www.malaysianbar.org.my/index.php?option=com\\_docman&task=doc\\_view&gid=3314](http://www.malaysianbar.org.my/index.php?option=com_docman&task=doc_view&gid=3314), accessed on 21 August 2015; 'A brief history of elections in Malaysia' General Election Network for Disability Access, available at <http://www2.agendaasia.org/index.php/articles/news/216-a-brief-history-of-elections-in-malaysia>, accessed on 21 August 2015.

**Table 1: Ratification Status of International Instruments – Malaysia<sup>9</sup>**

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Punishment		
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights		
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance		
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)		5 Jul 1995 (a)
International Convention on the Elimination of All Forms of Racial Discrimination		
International Covenant on Economic, Social and Cultural Rights		
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)		
Convention on the Rights of the Child (CRC)		17 Feb 1995 (a)
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		12 Apr 2012 (a)
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography		12 Apr 2012 (a)
Convention on the Rights of Persons with Disabilities	8 Apr 2008	19 Jul 2010

Only reviewed once by the CEDAW and CRC Committees despite having ratified these treaties since 1995, Malaysia has filed no further reports.<sup>10</sup> The CRC Committee put

9 United Nations Human Rights, Office of the High Commissioner, available at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx), accessed on 22 October 2016.

10 UN General Assembly, A/HRC/WG.6/4/MYS/1/Rev1, 19 November 2008.

forward two very important recommendations which have yet to be implemented: that Malaysia should undertake a review and reform of its plural legal systems to resolve inconsistencies in the contradictory definitions of the child under civil and Sharia law; and that it should accede to other human rights instruments including the ICRMW and the Convention relating to the Status of Refugees in order to provide a framework for the protection of migrants and refugee children.

### ***C. National Laws and Legal Cases Threatening Human Rights***

In the last eight years since the 12th general election, it appears Malaysian people have finally awakened and are now pressing for the ruling coalition, the Barisan Nasional or the National Front (BN), to respond to demands from the electorate, mainly as a result of the ruling party losing its absolute two thirds parliamentary majority twice in the last two general elections (in 2008 and 2013 respectively). As a result, for the first time in the political history of Malaysia, demands to amend unsatisfactory laws and address racism gained traction in the BN leading to the abolition of laws which allowed for detention without trial such as the infamous Internal Security Act (ISA), the Emergency Ordinances (EO) and the Restricted Residences Act.

#### *Important court cases (2014)*

*The persecution of Dato Seri Anwar Ibrahim:* The ongoing saga of the persecution of former Deputy Prime Minister and current opposition party leader, Anwar Ibrahim, continues to this day. Jailed after his sodomy case was fast tracked in 2014, he was finally imprisoned after all legal remedies before the Federal Court were exhausted. Accordingly, he was found guilty and imprisoned for five years, automatically disqualifying him as a Member of Parliament (MP). To this day, many questions pertaining to his guilty verdict and the entire litigation process surrounding it, including the quality of the evidence presented, remain unanswered.<sup>11</sup>

*Freedom of expression and speech cases:* The government arbitrarily uses its arsenal of laws to stifle free speech, especially the Sedition Act and the Communications and Multimedia Act of 1998. Malaysian human rights NGO, SUARAM, in their 2014 Annual Report, documents the following:

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<sup>11</sup> Doherty, B, 'Anwar Ibrahim guilty in sodomy case' The Guardian, 10 February 2015, available at <https://www.theguardian.com/world/2015/feb/10/anwar-ibrahim-guilty-in-sodomy-case>, accessed on 2 November 2016.

Table 2: Individuals Convicted for Making Alleged Offensive Statements in 2014

Individual	Offence	Sentence	Date
Karpal Singh	Sedition Act (1948)	RM400 fine	21 Feb 2014
Safwan Anang	Sedition Act (1948)	10 month imprisonment	9 May 2014
Adam Adli	Sedition Act (1948)	12 month imprisonment	20 Sep 2014
Chow Mun Fai	Communications and Multimedia Act (1998)	12 month imprisonment	9 Sep 2014

As indicated by the SUARAM report, such laws permit unjust judgments to be carried out. In particular, the “disproportionality of the sentences given by the Sessions Court in the cases of Safwan Anang, Adam Adli, and Chow Mun Fai was incongruous given that no actual harm was caused and none of the accused had attempted to incite violence or instigate disorder.”<sup>12</sup>

*Abuse of the rule of law under the Sedition Act and the Penal Code, Sec 124B*

The Sedition Act was enacted in 1948 by the British colonial government to counter communist insurgency. Not long after the so-called race riots of 1969, it was amended to criminalize any questions regarding Part III (citizenship), Art 152 (national language), Art 153 (special position of Malays and natives of Sabah and Sarawak, and the rights of other races), and Art 181 (ruler’s sovereignty) of the Federal Constitution. Historically, the Sedition Act has mainly been used on government critics, including MPs, and applies to any form of act, speech, words or publications. Moreover, because ‘seditious’ is only loosely defined, its use is easily abused.<sup>13</sup>

In addition, under the exception stated in Art 63(4) which was inserted via an Emergency Ordinance, parliamentary immunity can be suspended. For instance, MP Nurul Izzah, was arrested and detained under the Sedition Act in March 2015 for reading a speech in parliament written by her father, Datuk Seri Anwar Ibrahim. Many viewed the arrest as unconstitutional especially as all declared ‘emergencies’ had been lifted in 2011, rendering Art 63(4) void. Other notable figures who have been victimised include Penang Chief Minister, Lim Guan Eng, and former National Chairman of the Democratic Action Party (DAP), the late Karpal Singh, both of whom were members of the opposition political party.<sup>14</sup>

12 Suara Rakyat Malaysia (SUARAM), Malaysia: Human Rights Report 2014, SUARAM, 2014, at p 173.

13 Jumadi, AQ, ‘Seven things to know about the Sedition Act’ POSTKOD.MY, available at <http://poskod.my/cheat-sheets/seven-things-to-know-about-the-sedition-act/>, accessed on 22 August 2015.

14 ‘The Sedition Act 1948’ CIJ (Center for Independent Journalism), available at <http://cijmalaysia.org/miniportal/2010/09/the-sedition-act-1948/>, accessed on 22 August 2015.

Significantly, PM Najib Razak had initially promised to replace the Sedition Act with a National Harmony Act to nurture a spirit of harmony and respect among Malaysians in 2012.<sup>15</sup> Despite UN human rights officials warning that the series of amendments would seriously undermine freedom of expression and opinion in Malaysia,<sup>16</sup> PM Najib succumbed to pressure from his own party, UMNO, and reneged on his promise, saying instead that the Sedition Act would actually be strengthened. While the new proposed amendments removed the component making criticism of the government or judiciary seditious, it also increased the penalties from 3 to 7 years imprisonment, and up to 20 years for acts or statements leading to physical harm. Further, the new amendments removed leniency for first time offenders, and allowed the sharing of internet materials to be considered seditious, even empowering the court to remove internet materials deemed as such.<sup>17</sup>

A crisis point was reached in 2014 when the government initiated a campaign labelled by the mass media as the Malaysian sedition dragnet during which several prominent figures and citizens were arrested and charged for committing sedition. The list included politicians, law professors, political activists, bloggers, journalists, student activists, and ordinary citizens. Most were critical of the government and the judiciary while others were charged for making racial or religious comments.<sup>18</sup> Ong Kian Ming, an opposition MP, claimed the purpose of the crackdown was to show doubters that PM Najib was not weak as suggested by former PM, Mahathir Mohamad.<sup>19</sup>

Another dangerous ‘weapon’ utilized by the current government is Chapter 6, Sec 124B of the Penal Code which deals with offences against the State such as waging war against the King. This section was designed to prosecute anyone carrying out, by any means, directly or indirectly, any “activity detrimental to parliament democracy.”<sup>20</sup> Further, the police may also enforce the Security Offences Special Measures Act (2012) for Chapter 6 offences. Drafted originally to combat terrorism, this Act allows authorities to violate human rights by detaining suspects up to 28 days for investigation, refusing bail after

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15 Jumadi, AQ, ‘Seven things to know about the Sedition Act’ POSTKOD.MY, available at <http://poskod.my/cheat-sheets/seven-things-to-know-about-the-sedition-act/>, accessed on 22 August 2015.

16 ‘Malaysia’s anti-terror and sedition laws ‘curtail’ human rights, warn UN Rights Chief’ UN News Center, available at <http://www.un.org/apps/news/story.asp?NewsID=50536#.VdiSSfmqqkq>, accessed on 22 August 2015.

17 ‘Sedition Act amendments restrict freedom of expression, says US’ The Malaysian Insider, available at <http://www.theedgemarkets.com/my/article/sedition-act-amendments-restrict-freedom-expression-says-us>; ‘Malaysia’s anti-terror and sedition laws ‘curtail’ human rights, warn UN human rights chief’ available at <http://www.un.org/apps/news/story.asp?NewsID=50536#.VdiSSfmqqkq>, all accessed on 22 August 2015.

18 ‘Sedition Act 2015: who have been arrested, investigated, and charged so far?’ SAYS, available at <http://says.com/my/news/sedition-act-2015-who-have-been-arrested-investigated-and-charged-so-far>, accessed on 22 August 2015.

19 Grudgings, S, ‘With sedition dragnet, Malaysia takes step back to Mahathir era’ Reuters, available at <http://www.reuters.com/article/us-malaysia-sedition-idUSKBN0H203S20140907>, accessed on 22 August 2015.

20 ‘LKS: Nazri said section 124B only for terrorists’ Free Malaysia Today, available at <http://www.freemalaysiatoday.com/category/nation/2015/08/15/lks-nazri-said-section-124b-only-for-terrorists/>, accessed on 22 August 2015.

they have been charged, and by using secret witnesses without the need to tender exhibits during court proceedings.<sup>21</sup>

During a parliamentary session in 2012, the Minister of Law and Parliamentary Affairs made assurances that the new Sec 124B would only be used to tackle terrorist activities. However, such assurances turned out to be worthless when three activists were arrested and remanded under Sec 124B for planning to organize a rally demanding the arrest of PM Najib for abuse of power and corruption. Several other prominent figures, including parliamentarians, have challenged these arrests claiming they were unconstitutional as none of the cases involved violence or unconstitutional means.<sup>22</sup>

## Part 2: Outstanding Human Rights Issues

### A. Corruption

Corruption contributes to instability and poverty and is a dominant factor driving developing countries towards catastrophe. Malaysia is particularly vulnerable to this scourge after decades of a system cloaked in cronyism and secrecy, resulting in the undermining of the rule of law, a weakening of trust in democratic institutions, and an erosion of the principles of transparency and accountability. Repeated surveys in recent years have highlighted Malaysia's poor governance and its culture of bribery and corruption which has resulted in illicit capital outflows and crony capitalism. A recent survey by Ernst & Young (a London-based professional audit firm) reported that "Malaysia has been ranked as one of the most corrupt nations and is listed as a country which is most likely to take shortcuts to meet targets when economic times are tough."<sup>23</sup>

Confidence levels in government administration are further eroded each time the country's Auditor General reports to Parliament, time and again, exposing outrageous and controversial information on Malaysia's public administration. Furthermore, real time audits on government wastage and mismanagement of public funds surfaced too, causing embarrassment, anger, and disbelief among the populace.

Despite the federal government prioritising the fight against corruption as a top National Key Result Area (NKRA) and despite the introduction of a new ministry on governance, public dissatisfaction continues to mount around the government's

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21 'Police can use anti-terror on those detained under Section 124B, lawyer warns' The Malaysian Insider, available at <http://www.theedgemarkets.com/my/article/police-can-use-anti-terror-act-those-detained-under-section-124b-lawyer-warns>, accessed on 22 August 2015.

22 'Courts must define the ambit of Section 124B, says Gobind' The Malaysian Insider, available at <https://sg.news.yahoo.com/courts-must-define-ambit-section-091142468.html>, accessed on 22 August 2015.

23 'Malaysia one of the most corrupt nations, survey shows' C4, available at <http://www.c4center.org/malaysia-one-most-corrupt-nations-survey-shows>, accessed on 2 November 2015.

apparent lack of political will to achieve this task. Unresolved high profile corruption cases and the overwhelming culture of secrecy and incompetence compounded by archaic secrecy laws have created an urgent need to advocate for reforms protecting the rights and interests of the people.

Ironically, Malaysia ratified the UN Convention Against Corruption (UNCAC) on 24 September 2008 which compels it to promote practices of good governance, fight corruption, and enhance transparency. Embodying elements of prevention, criminalisation, international cooperation, and asset recovery, the Convention provides a comprehensive guide for member states to holistically fight corruption. Despite this, a published survey by Transparency International (TI) in 2014 found a majority of surveyed households perceived Malaysian political parties to be extremely corrupt. In the same report, respondents also considered government efforts to battle corruption as ineffective. However, the Corruption Perceptions Index (CPI) did credit Malaysia with slight improvement, from a ranking of 53 in 2013 to 50 out of 100 countries in 2014.<sup>24</sup>

Likewise, established in 2009, the current Malaysian Anti-Corruption Commission (MACC) was touted to be an independent body but has fallen far short of such high expectations.<sup>25</sup> In fact, the MACC has only managed to prosecute a handful of major personalities such as former Selangor Chief Minister (Menteri Besar), Khir Toyo;<sup>26</sup> positive results in other investigations have yet to be forthcoming. Moreover, it was also mired in controversy following the death in custody cases of Teoh Beng Hock and Ahmad Sarbaini Mohamed. A Royal Commission of Inquiry found that Teoh Beng Hock had committed suicide, a verdict rejected by both his family and the public.<sup>27</sup> Similarly, the coroner's court ruled Ahmad Sarbaini's death had been accidental. Again, his family disagreed and brought a civil suit against MACC on grounds of negligence which was eventually dismissed by the High Court.<sup>28</sup>

One of the most high profile and controversial corruption issues in the country can be found in the ongoing 1MDB scandal. Current PM, Najib Razak, was accused of receiving a total of US\$700 million in his personal account from a 1MDB joint venture

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24 'Malaysia's rank in Corruption Perceptions Index improves slightly' National Key Result Areas, available at <http://www.nkracorruption.gov.my/index.php/en/19-frontpage-articles/662-malaysia-s-rank-in-corruption-perceptions-index-improves-slightly>, accessed on 21 August 2015.

25 Prime Minister's Department, 'Commissions', available at [http://www.jpm.gov.my/post/modules/pajpm/vbulletin.php?lang=en&bulletin\\_id=18&page=](http://www.jpm.gov.my/post/modules/pajpm/vbulletin.php?lang=en&bulletin_id=18&page=), accessed on 21 August 2015.

26 'Khir Toyo trial: prosecution closes case' Free Malaysia Today, 22 June 2011, available at <http://www.freemalaysiatoday.com/category/nation/2011/06/22/khir-toyo-trial-prosecution-closes-case/>, accessed on 2 November 2016.

27 'Teoh's family rejects findings; mum adamant he was murdered' The Star Online, available at <http://www.thestar.com.my/story/?file=%2f2011%2f7%2f22%2fnation%2f9153184&sec=nation>, accessed on 21 August 2015.

28 'Court tosses Ahmad Sarbaini family's suit against MACC' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/court-tosses-ahmad-sarbaini-familys-suit-against-macc>, accessed on 21 August 2015.

with PetroSaudi.<sup>29</sup> Unsurprisingly, this controversy has engulfed the whole nation in heated debate and anger. The issue also forced PM Najib to sack and replace government ministers and high ranking officials not aligned with him, including, amongst others, his deputy, another senior minister, and the Attorney General.

In a twist of events, UMNO ministers close to the PM now claim he'd previously explained the money was donated by a Saudi Arabian benefactor in appreciation of his help combatting Islamic State (IS).<sup>30</sup> However, many believe intimidation tactics were used to delay the investigation including the sudden removal of the Attorney General, disbandment of the MACC special task force on 1MDB, investigation of Bank Negara officials, and the appointment of four Parliamentary Public Accounts Committee (PAC) members as cabinet members in a recent reshuffle which had the effect of postponing the PAC hearings further.<sup>31</sup>

Another scandal came to light when it was revealed that the former Chief Minister of Sarawak, Abdul Taib Mahmud (who ruled the state for 33 years) and his family, were involved in logging operations on Borneo Island. It is believed Sarawak lost a total of RM41 million (US\$13 million) in 2014 alone due to illegal logging, leaving a mere 5% of the state's lush rainforests intact today.<sup>32</sup> Although MACC initiated investigations into this case, it has yet to yield productive results. Taib Mahmud refused to cooperate with MACC officials who are also investigating him for other graft charges since 2011, all of which remain unresolved.<sup>33</sup>

Corruption charges have not only been alleged against current PM Najib. His predecessor, Mahathir Mohamad, was also accused of reclaiming ten islands off Kedah State, wastefully spending RM100 billion (US\$33 billion) during his tenure, and turning

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29 'Investigators believe money flowed to Malaysian leader Najib's accounts amid 1MDB probe' The Wall Street Journal, available at <http://www.wsj.com/articles/SB10130211234592774869404581083700187014570>, accessed on 21 August 2015.

30 'Najib's RM2.6b donation from Saudi Arabia a sign of thanks for combating IS, UMNO leader says' The Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/najibs-rm2.6b-donation-from-saudi-arabia-a-sign-of-thanks-for-combating-is>, accessed on 21 August 2015.

31 'Najib responsible for 1MDB's task force end, crackdown at MACC, says group' The Malaysian Insider, available at <http://www.theedgemarkets.com/my/article/najib-responsible-1mdb-task-force%E2%80%99s-end-crackdown-macc-says-group>, accessed on 21 August 2015; 'Nur Jazlan: PAC 1MDB probe now on hold' Malaysiakini, available at <http://www.malaysiakini.com/news/306487>, accessed on 21 August 2015; 'Bank Negara officials investigated over 1MDB: Zeti' New Strait Times Online, available at <http://www.nst.com.my/node/95984>, accessed on 21 August 2015.

32 'Sarawak lost RM41mil due to illegal logging last year' The Star Online, available at <http://www.thestar.com.my/News/Nation/2015/05/14/sarawak-loses-rm41mil-due-to-illegal-logging/>, accessed on 21 August 2015; 'Inside Malaysia's shadow state' Global Witness, available at <https://www.globalwitness.org/campaigns/forests/inside-malaysias-shadow-state/>, accessed on 21 August 2015.

33 'Progress on the investigation pertaining to the Chief Minister of Sarawak' Malaysian Anti-Corruption Commission, available at <http://www.sprm.gov.my/taib-mahmud.html?&lang=en>, accessed on 21 August 2015; 'Get on with Taib's graft probe, DAP MP tells MACC' The Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/get-on-with-taibs-graft-probe-dap-mp-tells-macc>, accessed on 21 August 2015.

UMNO into a vast conglomerate of nepotism, thus allowing his three sons to amass a fortune of more than US\$8 billion.<sup>34</sup>

## ***B. Unfair Elections***

The ruling Barisan National (BN) government has been in power for thirteen terms since 1957 following independence, winning the last general election in 2013. Despite having garnered only an estimated 47.38% of the popular vote, BN won 133 out of 222 parliamentary seats, thereby enabling it to remain in power. The fact that a party with only a minority of the popular vote was able to form a government is a strong indicator that the voting system was skewed in BN's favour.<sup>35</sup>

Indeed, Malaysia's electoral processes show strong indications of not being free and fair. One major issue is unjust and ridiculous constituency delineations which, it has been argued, mocks the democratic principle of 'one-person, one-vote.'<sup>36</sup> For instance, Kapar, the largest constituency with 144,000 voters has about ten times more voters than Putrajaya which can only count 15,700 voters. Despite this, the allowable constituent voter density difference increased from 15% to 50% in 1962 until eleven years later in 1973 when limitations were completely removed.<sup>37</sup>

SUARAM's *Malaysian Human Rights Report 2014* revealed that the relative value of BN votes were as high as 126% compared to a low 66% and 64% for Parti Keadilan Rakyat (PKR) and Pan-Malaysian Islamic Party (PAS) respectively. Such a disparity probably explains why BN were able to win 59.91% of contested parliamentary seats from only 47.38% of the total votes compared to the opposition who won 50.87% of the total vote, but only managed to secure 40.09% of contested seats.<sup>38</sup>

Based on reports released by the Election Commission, the relative value of votes was more balanced in the 2013 election (as compared to previous elections) but has yet to reach the 'fair mark.' As it stands, each BN vote is equal to 1.91 votes for PKR, 1.19 votes

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34 'Dr M, are you ready to answer for your corrupt ways too?' Free Malaysia Today, available at <http://www.freemalaysiatoday.com/category/opinion/2015/03/14/dr-m-are-you-ready-to-answer-for-your-corrupt-ways-too/>, accessed on 21 August 2015.

35 'Poll observers: GE13 unfair, partially free' Free Malaysia Today, available at <http://www.freemalaysiatoday.com/category/nation/2013/05/08/ideas-ge13-only-partially-free-not-fair/>, accessed on 21 August 2015; 'A tawdry victory' The Economist, available at <http://www.economist.com/blogs/banyan/2013/05/malaysias-election-0>, accessed on 21 August 2015.

36 Suara Rakyat Malaysia (SUARAM), 'Chapter 9: Free and fair elections' in *Malaysia Human Rights Report 2014*, SUARAM, 2014 at pp 148-150.

37 'Malaysia's compromised electoral system' The Nut Graph, available at <http://www.thenutgraph.com/malaysias-compromised-electoral-system/>, accessed on 21 August 2015; Tey Tsun Hang, 'Malaysia's electoral system: government of the people?' *Asian Journal of Comparative Law*, 2010, Vol 5(1), Art 11, p 12.

38 Suara Rakyat Malaysia (SUARAM), 'Chapter 9: Free and fair elections' in *Malaysia Human Rights Report 2014*, SUARAM, 2014 at p 149.

for DAP, and 1.98 votes for PAS.<sup>39</sup> Similarly, in state elections, each BN vote was worth more than 100% in nine out of the twelve states contested in the 13th general election.<sup>40</sup> In other words, this disparity in constituency sizes makes it extremely difficult for opposition parties to win contested seats at the federal and state levels.

Voter registration irregularities are also common phenomena, e.g. absentee voters, non-voters appearing in voter rolls, legitimate voters being registered in the wrong constituencies, and foreigners being registered as voters.<sup>41</sup> Further, amendments to the Election Offences Act (1958) in 2002 removed the electoral roll from judicial oversight once certified and gazetted.<sup>42</sup> Consequently, courts lack the authority to act even when presented with strong evidence of fraud in the registration of voters. Other issues include postal and advance voting, involving the risk of lost ballot papers, and ballots attributed to the wrong constituencies which may be substituted during custody periods.<sup>43</sup>

Furthermore, the Election Commission's independence has been seriously questioned despite being appointed by the King, mainly because the appointment is also made under the PM's advice. Moreover, the ruling party has also been known to pass laws to assert control over the Election Commission.<sup>44</sup> Similarly, government machinery, especially the State-controlled mass media, is readily and regularly deployed to favour the ruling party.<sup>45</sup> Other concerns include fraud in polling, and the counting and tabulation of votes; selective restrictions imposed on campaign freedom; inadequate regulations on election expenses and funding; limitations as regards judiciary remedies; bribery and vote buying; and the abuse of power by police and administrators alike.<sup>46</sup>

39 Suara Rakyat Malaysia (SUARAM), 'Chapter 9: Free and fair elections' in Malaysia Human Rights Report 2014, SUARAM, 2014 at p 150.

40 Suara Rakyat Malaysia (SUARAM), 'Chapter 9: Free and fair elections' in Malaysia Human Rights Report 2014, SUARAM, 2014 at p 150.

41 'The People's Tribunal on Malaysia's 13th general elections: summary of the report' Global Bersih, available at <https://www.globalbersih.org/2014/04/08/the-peoples-tribunal-on-malaysias-13th-general-elections-summary-of-the-report/>, accessed on 21 August 2015.

42 'The People's Tribunal on Malaysia's 13th general elections: summary of the report' Global Bersih, available at <https://www.globalbersih.org/2014/04/08/the-peoples-tribunal-on-malaysias-13th-general-elections-summary-of-the-report/>, accessed on 21 August 2015.

43 'The People's Tribunal on Malaysia's 13th general elections: summary of the report' Global Bersih, available at <https://www.globalbersih.org/2014/04/08/the-peoples-tribunal-on-malaysias-13th-general-elections-summary-of-the-report/>, accessed on 21 August 2015.

44 'Malaysia's compromised electoral system' The Nut Graph, 30 September 2013, available at <http://www.thenutgraph.com/malaysias-compromised-electoral-system/>; Global Bersih. 'Findings of the People's Tribunal on Malaysia's 13th general elections: summary of the report' available at [www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx](http://www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx), all accessed on 7 November 2016.

45 'A tawdry victory' The Economist, available at <http://www.economist.com/blogs/banyan/2013/05/malaysias-election-0>, accessed on 21 August 2015; Tey Tsun Hang, 'Malaysia's electoral system: government of the people?' Asian Journal of Comparative Law, 2010, Vol 5(1), Art 11, p 12.

46 'Malaysia's electoral process' Aliran, available at <http://aliran.com/aliran-monthly/2011-issues/2011-6/malaysias-electoral-system/>; 'Malaysia's compromised electoral system' The Nut Graph, 30 September 2013, available at <http://www.thenutgraph.com/malaysias-compromised-electoral-system/>; Global Bersih. 'Findings of the People's Tribunal on Malaysia's 13th general elections: summary of the report' available at [www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx](http://www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx), accessed on 7 November 2016; 'Academic consensus on unfair elections' Aliran, available at <http://aliran.com/aliran-monthly/2011-issues/2011-6/academic-consensus-on-unfair-elections/>, accessed on 21 August 2015.

### *C. Encroachments Upon the Land Rights of Indigenous People*

There are more than 180,000 Orang Asli (indigenous people) in Peninsular Malaysia, making up 0.6% of the total national population. In addition, indigenous ethnic groups also constitute about 45.5% of Sarawak's population and about 60.5% of Sabah's total population. Collectively known as the Orang Asli of Malaysia, this group has long struggled with rights issues, especially as regards defending their ancestral lands from encroachment by outsiders. Introduced by the British colonial government, laws recognizing customary land rights and indigenous people in Sabah and Sarawak, are now no longer properly implemented. Indeed, the government seems to prioritise large scale resource extraction and the plantations of private companies over the rights of indigenous communities, often forcing them to relocate without proper planning and assistance (for example, one community in Perak was relocated from a settlement of wooden houses to government supplied concrete structures 6km away).<sup>47</sup> Such enforced relocations generally do not benefit indigenous communities in the slightest. Additionally, companies often discriminate against them (in the hiring process) and relocation sites are often without proper basic infrastructure and amenities such as pipe water and electricity.<sup>48</sup>

Over the years, the Sarawak Land Code has been amended several times to make it even more difficult for indigenous people to protect their lands. Similarly, the National Land Code in Peninsula Malaysia makes very little reference to Orang Asli land rights. According to the Department of Orang Asli Affairs, only 0.02% have title to their land. In Sabah, about 12% of the total area has been allocated to government statutory bodies for commercial plantations.<sup>49</sup>

Sarawak's Bakun Dam is another long-standing controversy involving indigenous people's right to land. The mega dam relocated about 10,000 indigenous people from fifteen different longhouses. Although the size and capacity of the dam was downsized later, the relocation plan continued to involve the same number of residents.<sup>50</sup> Moreover, another twelve mega hydroelectric dams have been planned with electricity producing potential far exceeding current consumption, implying the relocation of more indigenous peoples from their home and lands.<sup>51</sup>

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47 'Indigenous peoples in Malaysia' International Work Group for Indigenous Affairs, available at <http://www.iwgia.org/regions/asia/Malaysia>, accessed on 22 August 2015.

48 'Displaced indigenous Malaysians face uncertain future' Our World, available at <http://ourworld.unu.edu/en/displaced-indigenous-malaysians-face-uncertain-future>, accessed on 22 August 2015.

49 'Indigenous peoples' Aliran, available at <http://aliran.com/oldsite/hr/js7.html>, accessed on 22 August 2015.

50 'Malaysia: conflict caused by Bakun dam continues in Sarawak' World Rainforest Movement, available at <http://wrm.org.uy/oldsite/bulletin/24/Malaysia.html>, accessed on 22 August 2015.

51 'Revisiting the Bakun Dam controversy' Hornbill Unleashed, available at <https://hornbillunleashed.wordpress.com/2011/01/17/13703/>, accessed on 22 August 2015.

In what was considered one of the worst floods in Malaysia's recent history, the extent to which deforestation had already affected indigenous people's communities quickly became evident. Home to the Temiar community, Kuala Wok in Kelantan state was one of the most badly hit areas. Logging had already made their traditional way of life harder but although the development company promised them 3,000 hectares of land, no official contracts were signed. When most of the areas surrounding the villages were cleared, the community pleaded to the state government but were not effectively aided by the authorities.<sup>52</sup>

Land rights aside, it is also difficult for indigenous people to gain proper access to education. Although primary education is compulsory for every Malaysian child, little has been done to ensure indigenous children attend school, especially those from interior areas.<sup>53</sup> In particular, constant relocation makes regular attendance almost an impossibility. In addition, the use of the national language, Bahasa Malaysia, as the medium of instruction in schools and in government offices, has also resulted in the gradual erosion of indigenous languages. In Sarawak, Iban is only taught as a subject in one school in Kuching, and in less than half of state primary schools even where the student population is 50% Iban. As such, language discrimination in Sarawak has further marginalised indigenous communities, thus depriving them of employment.<sup>54</sup>

#### ***D. Police Abuse of Power***

Notably, the Royal Malaysia Police has regularly been accused of abuses of power, including excessive use of force, custodial deaths, and intimidation tactics. Established in 2009, the Enforcement Agency Integrity Commission (EAIC) is currently the only independent body overseeing police power. However, to date, the EAIC has proven ineffective as it has yet to prosecute or refer any of the over 1,000 complaints received, to the Attorney-General's chambers. In fact, the EAIC has only commenced two investigations out of 70 recorded cases of custody death.<sup>55</sup> Recommended by Royal Commission findings in 2005, an Independent Police Complaints and Misconduct Commission (IPCMC) was proposed to investigate misconducts and reprimand,

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52 'Malaysia's indigenous hit hard by deforestation' Al Jazeera, available at <http://www.aljazeera.com/indepth/features/2015/03/malaysia-indigenous-hit-hard-deforestation-150329101349832.html>, accessed on 22 August 2015.

53 'Indigenous peoples' Human Rights Commission of Malaysia, available at <http://www.suhakam.org.my/indigenous-people/>, accessed on 22 August 2015.

54 'Indigenous peoples and ethnic minorities in Sarawak' World Directory of Minorities and Indigenous People, available at <http://www.minorityrights.org/4540/malaysia/indigenous-peoples-and-ethnic-minorities-in-sarawak.html>, accessed on 22 August 2015.

55 'Four years and 1,000 complaints later, EAIC says nobody prosecuted yet' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/four-years-and-1000-complaints-later-eaic-says-nobody-prosecuted-yet>, accessed on 2 September 2015.

dismiss, and demote police officers but despite many calls for its establishment over the course of a decade, it has yet to be formed.<sup>56</sup>

From 2011 to 2014, 63 cases of custodial deaths were reported without a single successful prosecution against any officer involved despite the landmark ruling on the unlawful killing of Teoh Beng Hock (which concluded that the victim's death had been caused by unlawful acts by unknown persons inclusive of MACC's officers).<sup>57</sup> Other examples include two deaths reported to be caused by blunt force or assault, and several other custodial deaths categorized as medical despite suspicious post mortem reports.<sup>58</sup> For example, in the case of Murugan Muniandy, despite being heavily bruised, the post mortem results indicated he died of severe sepsis secondary to pneumonia (lung inflammation).<sup>59</sup>

High-handed police tactics are also commonly used to intimidate crowds during public assemblies. Some significant incidents have included the violent crackdowns of BERSIH (national NGO for free and fair elections) rallies, Himpunan Hijau (NGO coalition combating environmental hazards), and intimidation against the Baram community for protesting against the construction of Baram Dam. Not only did the police fail to protect participants of the rally from unidentified attackers, they also used physical violence to apprehend protesters. At the Baram blockade, witnesses reported that police officers armed with machine guns were deployed to intimidate the indigenous community.<sup>60</sup> In another case, police detained, intimidated, and tortured social activist, Ali Abdul Jalil, who was remanded a total of four times and charged three times under the Sedition Act in a one-month period. Denied visitation access by his family and friends, he was also verbally and physically tortured while in detention.<sup>61</sup>

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56 'Almost a decade on, lawyers continue to push for IPCMC' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/almost-a-decade-on-lawyers-continue-push-for-ipcmc>, accessed on 2 September 2015.

57 Suara Rakyat Malaysia (SUARAM), 'Chapter 2: Police abuse of power' in Malaysia Human Rights Report 2014, SUARAM, 2014, pp 10-25; 'Almost a decade on, lawyers continue to push for IPCMC' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/almost-a-decade-on-lawyers-continue-push-for-ipcmc>, accessed on 2 September 2015.

58 Suara Rakyat Malaysia (SUARAM), 'Chapter 2: Police abuse of power' in Malaysia Human Rights Report 2014, SUARAM, 2014, pp 10-28.

59 'Son who died in custody was badly bruised, says mum' fz.com, available at <http://www.fz.com/content/son-who-died-custody-was-badly-bruised-says-mum>, accessed on 2 September 2015.

60 Suara Rakyat Malaysia (SUARAM), 'Chapter 2: Police abuse of power' in Malaysia Human Rights Report 2014, SUARAM, 2014 at pp 25-26; 'Police must protect Himpunan Hijau protesters' Free Malaysia Today, available at <http://www.freemalaysiatoday.com/category/nation/2014/06/24/police-must-protect-himpunan-hijau-protestors/>, accessed on 7 November 2016.

61 Suara Rakyat Malaysia (SUARAM), 'Chapter 2: police abuse of power' in Malaysia Human Rights Report 2014, SUARAM, 2014 at pp 23-24; 'Repeal Sedition Act Movement condemns torture of Ali Abd Jalil' Aliran, available at <http://aliran.com/civil-society-voices/2014-civil-society-voices/torture-ali-abd-jalil-condemned-must-investigated/>, accessed on 2 September 2015.

## *E. People's Resistance*

On 29-30 August 2015, 500,000 Malaysians staged a 34 hour protest popularly called the 'Bersih 4.0' rally in the heart of Kuala Lumpur city. The organisers, 'Bersih 2.0,' a coalition of about 90 NGOs seeking reform of Malaysia's current electoral system to ensure free, fair, and clean elections, have to date, organised four mega rallies in 2007, 2011, 2012 and the latest in 2015. Aside from asking for the resignation of PM Najib, the rally demanded free and fair elections, transparency in governance, the right to demonstrate, a strengthening of the parliamentary democracy system, and for the government to save Malaysia's economy.<sup>62</sup>

The recent Bersih 4.0 rally achieved a great milestone in terms of freedom of speech; it was the first time in the recent history of the civil society movement that protesters participated in a 34 hour rally, including spending overnight in the heart of capital city, Kuala Lumpur.<sup>63</sup> It was also the first mega Bersih rally which saw no violent police crackdown, unlike the previous three rallies which had been forced to disperse when the police tear-gassed, shot water cannons, and physically attacked participants.<sup>64</sup>

However, thousands were arrested and the government also deployed the Federal Reserve Unit (anti-riot police). In addition to local support, the rally was also supported by a global Bersih movement, consisting of a network of different Bersih cells managed by overseas Malaysians and local supporters in different cities and countries who also conducted peaceful gatherings in the same 34 hour period. Bersih 2.0 also organized a Bersih People's Tribunal in 2013 to collect evidence and testimonies on alleged irregularities and frauds committed during the election.<sup>65</sup> The five-person tribunal led by Professor Yash Ghai of Kenya concluded that that the 2013 elections were clearly not free and fair.

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62 'Bersih calls for August rallies in 3 states to demand PM Najib's resignation' Channel NewsAsia, available at <http://www.channelnewsasia.com/news/asiapacific/bersih-calls-for-august/2014792.html>, accessed on 2 September 2015; 'Ahead of new rally, Bersih 2.0 expands list of demands' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/ahead-of-new-rally-bersih-2.0-expands-list-of-demands>, accessed on 2 September 2015.

63 'NGO: 500,000 people at Bersih 4 in KL alone' Free Malaysia Today, available at <http://www.freemalaysiatoday.com/category/nation/2015/08/31/ngo-500000-people-at-bersih-4-in-kl-alone/>, accessed on 2 September 2015.

64 'No violent crackdown as government perceives Bersih 4 harmless, analysts say' Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/no-violent-crackdown-as-government-perceives-bersih-4-harmless-analysts-say>, accessed on 2 September 2015.

65 Global Bersih. 'Findings of the People's Tribunal on Malaysia's 13th general elections: summary of the report' available at [www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx](http://www.bersih.org/wp-content/uploads/2014/03/Summary-of-Report-Final.docx), accessed on 7 November 2016.

## *F. Race and Religious Issues in Malaysia*

The politics of race and religion have long been used to divide and rule Malaysian society in the name of political stability. Since colonial times, this concept has been exploited time and again for the benefit of government parties. The country's constitution formulated in 1957 after independence provided for affirmative action in favour of the majority race-group, "the Malaya and Natives of Sabah and Sarawak." Article 153 states the following:

*It shall be the responsibility of the Yang di-Pertuan Agong (King) to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.<sup>66</sup>*

While this provision was supposed to be temporary, as per all legitimate affirmative action policies, the Constitution was never revised, thus, this policy became embedded in Malaysian society. As such, conservative, racist, and right wing groups, including the ruling UMNO political party, were able to fan the extremist and racist ideology that the nation belonged only to Malaysians, others considered mere migrants in their land.

### *Deliberate fanning of racial issues*

Throughout the years, several groups and individuals have consistently and actively provoked and fanned conflict among the different races. Clearly reluctant to acknowledge the importance of diversity, these groups have continuously championed their own racial rights as can be seen in the following section.

*The Low Yat Plaza issue:* Clearly a case of theft and thuggery, the incident at Low Yat Plaza (during which a man allegedly suspected of theft instigated a brawl in retaliation) was spun into a racial issue.

- (a). Non-governmental groups such as Perkida (Persatuan Kebajikan Islam dan Dakwah Islamiah) and Isma (Ikatan Muslimin Malaysia) were amongst the groups fanning the flames.<sup>67</sup> For example, members of Perkida protested for fairness and justice in front of Low Yat Plaza to support the shopkeeper who had been beaten up by the suspected thief and his friends in the mall.<sup>68</sup>

66 'Constitution of Malaysia' Constitution Finder, available at [http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20\(BI%20text\).pdf](http://www.agc.gov.my/agcportal/uploads/files/Publications/FC/Federal%20Consti%20(BI%20text).pdf), accessed on 7 November 2016.

67 Razak, R, 'Police cordon off Low Yat Plaza' Malaysiakini, 12 July 2015, available at <http://www.malaysiakini.com/news/304916>, accessed on 7 November 2016.

68 'Police seal off access to Low Yat Plaza' Malay Mail Online, 12 July 2015, available at <http://www.themalaymailonline.com/malaysia/article/police-seal-off-access-to-low-yat-plaza>, accessed on 7 November 2016.

- (b). Individuals such as Wan Muhammad Azri Wan Deris or ‘Papagomo’ (his internet blog name) and Ali Tinju from the Malay Armed Forces Veterans Association also turned the incident into a racial issue. Indeed, Papagomo was arrested by the police for spreading false information about the brawls, and Ali Tinju was taken in for making a racially-charged speech outside the plaza during the protest.<sup>69</sup>

*Pro-Bumiputera policies and platforms disregarding cultural sensitivity:* NGO, Perkasa (Pertubuhan Pribumi Perkasa Malaysia), has continuously pushed the government to create or amend policies catering specifically to Bumiputeras.

- (a). Perkasa president, Ibrahim Ali, urged it to create a master policy to manage Bumiputera economic development policies, stating that such rights should be highlighted in ‘every chapter’ of the 11 Malaysia Plan.<sup>70</sup>
- (b). Ridhuan Tee, continues to issue statements which are culturally and racially insensitive. For example, he welcomed the Terengganu state government’s move to tighten Islamic regulations such as prohibiting women from riding pillion on motorcycles, introducing sanctions for skipping Friday prayers and banning so-called ‘provocative’ dressing in public. Furthermore, he also suggested that some of these rules should be applied to non-Muslims as well (e.g. the modest attire rule). Indeed, when Kinrara state assembly person, Ng Sze Han, said his office was open to people wearing any attire, Ridhuan Tee sarcastically suggested people should be allowed to enter churches or temples in their underwear.<sup>71</sup>

*Politicians, lawmakers, and policy makers issuing racially sensitive remarks:* Politicians, lawmakers, and policy makers who are supposed to be impartial regardless of a citizen’s race, religion, and culture have also been guilty of provoking and fanning conflict among different races by making insensitive remarks.

69 Razak, R, and Lu, WH, ‘Papagomo, Ali Tinju and four Low Yat traders held’ Malaysiakini. 15 July 2015, available at <http://www.malaysiakini.com/news/305193>, accessed on 7 November 2016.

70 ‘Perkasa urges government to create master policy to manage Bumi economic development policies’ Bernama, available at <http://www.bernama.com/bernama/v8/bu/newsbusiness.php?id=1157035>, accessed on 30 July 2015; Yap, TG, ‘Perkasa wants Bumi rights mentioned in ‘every chapter’ of the 11MP’ Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/perkasa-wants-bumi-rights-mentioned-in-every-chapter-of-11mp>, accessed on 28 May 2015.

71 ‘Extend modest attire rule to non-Muslims’ Malaysiakini, available at <http://www.malaysiakini.com/news/291430>, accessed on 9 March 2015; ‘Ridhuan Tee: Why not just don underwear to church?’ Malaysiakini, available at <http://www.malaysiakini.com/news/303716>, accessed on 1 July 2015.

- (a). Prime Minister Najib Razak actively champions for ‘1 Malaysia’ but has consistently contradicted himself by highlighting that UMNO will continue to defend the rights of, and do the best for, Malays to the detriment of other races. Indeed, he has been recorded as telling other races not to dispute the special rights of Malays, rulers, and Islam.<sup>72</sup>
- (b). A former deputy minister incited hatred in a recent UMNO annual general meeting by falsely accusing a Chinese man in Kedah of burning pages of the Quran during a ritual.<sup>73</sup>

### ***G. Culturally Insensitive Actions in the Community***

The nation was recently shocked when some civil servants implemented a code of conduct on the treatment of other ethnic groups. For example, at the Road Transport Department, a Chinese woman was forced to wear a Malay sarong (deemed the appropriate dress code) before entering the government department despite the fact she was dressed in knee length pants and a regular ladies blouse.<sup>74</sup> Likewise, a woman wearing shorts was barred from visiting her sick relative at Sungai Buloh Hospital.<sup>75</sup>

Before entering, she was instructed to wrap a towel around her waist to cover her legs. Finally, some Muslim parents and teachers absurdly pressured the headmaster of St Mary’s primary school in Labuk, Sandakan, Sabah, to remove a Christian cross hanging in a new building because it made them ‘uncomfortable.’<sup>76</sup>

72 ‘Do not dispute anymore the rights of the Malays, rulers and Islam – Najib’ Bernama, Astro Awani, available at <http://english.astroawani.com/politics-news/do-not-dispute-anymore-rights-malays-rulers-and-islam-najib-49426>, accessed on 30 November 2014; ‘Najib: UMNO will continue to fight for rights of Malays’ The Star Online, available on <http://www.thestar.com.my/News/Nation/2014/11/28/Najib-Umno-will-continue-to-fight-for-rights-of-Malays/>, accessed on 28 November 2014.

73 Melati, AJ, ‘5 more police reports lodged against Mashitah over ‘Chinese-burning Quran’ remark’ available at <http://www.themalaysianinsider.com/malaysia/article/5-more-police-reports-lodged-against-against-mashitah-over-chinese-burning>, accessed on 2 December 2014.

74 Avineshwaran, T, ‘JPJ tells woman to ‘cover up’ with sarong or be refused service’ The Star Online, available at <http://www.thestar.com.my/News/Nation/2015/06/08/RTD-forces-woman-to-use-sarong-over-skirt/>, accessed on 8 June 2015.

75 Syed, JZ, ‘Woman in shorts claims barred entry at Sungai Buloh hospital’ Malay Mail Online, available at <http://www.themalaymailonline.com/malaysia/article/woman-in-shorts-claims-barred-entry-at-sungai-buloh-hospital>, accessed on 23 June 2015.

76 ‘Yap says ‘no’ to bid to remove cross at school’ Malaysiakini, available at <http://www.malaysiakini.com/news/302916>, accessed on 24 June 2015.

## Part 3: Conclusion

It could be argued that Malaysia is about to enter the last stretch in its journey to become a fully mature nation; however, this leg may not be an easy one. For too long, power has been entrenched in the hands of a few who have done their utmost to preserve a special position for the political majority while sacrificing human rights at the altar of political convenience and the power centralisation of ruling elites.

Since the 2008 general election, a majority of Malaysians have clamoured for a break from a past of systemic race-based politics and centralised autocratic rule. One hopes that oppressive amendments to existing laws such as the Sedition Act and the introduction of new security laws enabling easy abuse by the authorities will constitute a last desperate attempt by the ruling government to stifle the rise of a different generation of Malaysians; one that demands a more equal and just society, and that respects a person's dignity and rights, irrespective of race or religion.

In order for this to occur, human rights will need to feature much more visibly through education and advocacy as regards all pockets of society to drive home the point that society can only meaningfully move forward when greater respect for the dignity and rights of all people becomes the norm.