



INSTITUTIONAL RACISM AND RELIGIOUS FREEDOM IN MALAYSIA

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Institutional Racism and Religious freedom in Malaysia

Institutional racism is the process by which people from ethnic minorities are systematically discriminated against by a range of public and private bodies. If the result or outcome of established laws, customs or practices is racially discriminatory, then institutional racism can be said to have occurred.

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In this paper we postulate that Malaysia has all the hallmarks of a racist and religious extreme state on the following foundation;

- a) The Federal Constitution basically establishes 2 classes of citizens, vide Article 153, the root of the racist system.
- b) The State sanctions racist and religious extreme laws and policies
- c) The State controls the Government Administration through one racial and religious group
- d) The State channels most funds for economic/education/social development programs and licenses, permits etc., to one race
- e) The State controls Religious freedom to the disadvantage of non-Muslims, imposes of Muslim religious laws on non-Muslims and extends the jurisdiction of the Syaria Courts onto non-Muslims.
- f) The State sponsors violence and threats of violence both directly and indirectly (outsourced) on the citizens to create fear among the non-Malay non-Muslims.
- g) The State sanctions draconian, punitive laws and gives blank cheques to the Police to make arbitrary arrests of dissenters.
- h) The State explicitly and implicitly declares that the Malays are the masters (Malay Supremacy) and the sons of soil.

Ethnic composition of Malaysia : Malays 53.3%, Chinese 26.0%, indigenous 11.8%, Indians 7.7%, others 1.2%. Religions: Islam (60.4%), Buddhism (19.2%), Christianity (9.1%), Hinduism (6.3%), other/none (5.0%). - US Department of State 2011

In the Federal Constitution of Malaysia, a Malay is one who is defined as one who is a Muslim, speaks the Malay language and habitually practices Malay culture, customs and traditions.

In reality as long as a person is a Muslim he can be a Malay, even an illegal immigrant and a foreigner who is a Muslim can be Malay.

Non-Muslims represent approximately 40 % of the population – approximately 12.5 million people and include Buddhists, Christians, Hindus, Sikhs and nature worshipping communities. The Indian population and other non-Malay and native races are clearly a minority community.

The treatment received by the minorities in Malaysia relating to public and private bodies clearly establishes that Institutional racism is occurring in Malaysia.

Malaysia is not that bubbling, bustling melting pot of races. In reality it is a country based on a subtle, pervasive and increasingly aggressive form of racism¹.

The conflict that lies just below the artificial calm, is so well concealed, that someone with not more than a cursory knowledge Malaysia will find it hard to believe that there exists anything significant otherwise . The current discourse holds that even what is termed racism here is no more than an outcome of a failing and incompetent bureaucracy. Everything else is just affirmative action.

The various state policies have been creatively crafted and carved into a jigsaw of a reinforcing racist system. The state system operates with the protection of official secrecy and a tight hold on the various apparatus of the state that whosoever dares to cross the line runs the risk of detention and malicious prosecution. This effectively renders the phenomenon of racism in Malaysia opaque and gives racism in Malaysia its uniquely Malaysian flavor.

The **Malay supremacy** or **Malay dominance** narrative holds that the Malay people are the *tuan* (masters) of Malaysia and the Chinese and the Indians, who form a significant minority are beholden to them for granting them citizenship. In return for which the special position of the Malays as set out in Article 153 of the Malaysian Constitution is freely interpreted to mean special privileges – no holds barred. The Article was initially intended to be reviewed 15 years after independence (1957), however it has become a permanent feature. In subsequent amendments to the Constitutions, Article 153 was entrenched further which requires the consent of the Malay Rulers before it could be amended.

Article 153 is a deep-rooted racist provision in the Constitution which sanctions implementation of all racist policies in Malaysia to the disadvantage of the minority non-Malay/Muslim population. Questioning any matter, rights, status, privilege etc of Article 153 is considered a challenge to the Malay Supremacy, insulting the Royal Institution and Islam. It is also deemed a threat to National Security, an offence under the Internal Security Act which gives powers of arrest for unlimited period without trial and under the Sedition Act which provides for imprisonment between 3-5 years.

The current Prime Minister and Cabinet Ministers have on previous occasions openly threatened non-Malays with violence (blood) should this provision be questioned.

The rise of Malay "ultras " who advocated a one-party government led by UMNO, and an increased emphasis on the Malays being the "definitive people"

of Malaysia — i.e. only a Malay could be a true Malaysian became more apparent after the race riots in 1969.

The riots caused a major change in the government's approach to racial issues, and led to the introduction of an aggressive affirmative action policy strongly favoring the Malays, the New Economic Policy (NEP).

The **Malaysian New Economic Policy (NEP or DEB for Dasar Ekonomi Baru** in Malay), was a determined and divisive socio-economic restructuring affirmative action program launched by the Malaysian government in 1971 under the then Prime Minister Tun Abdul Razak. In practice it was a social engineering project to enrich a particular race – the Malay Muslims. Though the NEP ended in 1990, it effectively continued as the National Development Policy in 1991. The NEP has reduced non-Malays and natives of Peninsula Malaysia, Sabah and Sarawak to the status of second-class citizens through the *ketuanan Melayu* (Malay supremacist) policies. The non-Malay/Muslim minority will never be able to call themselves Malaysians in equality and would remain a permanently colonized people.

The entire range of government administrative policies, annual budgets, economic programs, education, job opportunities in public sector, grant of land, business opportunities, permits or licenses for any business or trade are tilted to favor Malay Muslims and are meant to segregate just like the apartheid system in South Africa and In effect to implement a divide and rule policy to maintain the UMNO led political party hegemony.

This paper establishes the facts and joins the dots and hopes to clarify the reality of this institutionalized racism and religious extremism. The phenomenon will be established by laying out the experience of the minorities. In this paper we try to give as many facts and as much data as are available to us to corroborate our claims. It continues to be an uphill battle getting necessary and reliable statistics from the Government as it does not put out such statistics as this is part of their scheme to keep under wraps the numerical representation of the uncomfortable facts.

We will segment the various experience as follows:

- 1. Treatment in State Policies**
- 2. Treatment by the Malaysian Police**
- 3. Treatment in and by the State Administration**
- 4. Treatment by the Judicial System**
- 5. Treatment by the Media**
- 6. Treatment in the Education system**

1. Treatment in Government Policies

The New Economic Policy (NEP) of the Malaysian Government from the 1970s had the stated objective of eradicating poverty irrespective of race and of eliminating identification of race with occupation. However in reality NEP and its subsequent economic programs have seen the channeling of hundreds of

billions (the exact figure remains a state secret) to enrich and uplift the Malay Muslims.

Article 153 of the Malaysian Federal Constitution states that:

153. (1) It shall be the responsibility of the Yang di-Pertuan Agong (the Malaysian 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.

The phrase special position has been interpreted to mean special privileges and the entire government policy frame has been hijacked in favor of the Malays and the innate racist tendency of the Constitution was given a fillip by Dr. Mahathir from the 1980s. This hijacking has been made possible by the muzzling of any and all dissenting views by the various draconian laws of which the Internal Security Act of 1960 is the most notorious. The Sedition Act (1969), the Printing Presses and Publications Act 1984, and the Official Secrets Act 1972 are some of the other acts.

The above two factors – the NEP driven by the distorted interpretation of Article 153 and the muzzling of dissension of Government policy has in effect made NEP the policy vehicle for the institutionalization of the racism. The NEP accelerated the formation of the largely Malay Administration which for its part then worked hand in glove with the dominant Malay political party – UMNO and the other key institutions and consolidated the institutionalization in the ways described above to become what it has become.

Outsource of UMNO policy implementation to NGO's and the Para-Military underworld.

Since the Democratic uprising of Indians led by Hindraf in 2007 and the subsequent loss of its 2/3 Parliamentary mandate in the March 2008 elections, UMNO has outsourced its overt racist agenda to NGO's in particular PERKASA. This is an NGO led by a Pro UMNO Parliamentarian who promotes the Malay supremacy agenda and has the explicit support of top UMNO leadership including the former Prime Ministers, ex Army officials and ex Inspector General of Police.

PERKASA works intimately with a more militant group known as Pekida² and another underworld Para- military group known as 3 LINE. Together they perpetuate racial hatred and cause fear among the non-Malays.

3 LINE is believed to have existed from after the 1969 racial riots and its members pledge their loyalty to the serving UMNO Prime Minister. It is said they have sworn to protect the Malay UMNO hegemony at any cost and believed to be armed and work closely with the Police and Armed forces. Many Malaysians know the existence of 3 LINE but dare not speak about this underworld movement for the obvious reasons.

3 LINE members are mainly former and current members of the Royal Police force and Armed forces. They move freely and are not subjected to Law and often their threat of violence is given tacit approval by the government.

We have reliable information that the 3 LINE para-military members were involved in the Kg Medan Racial attack in 2001 where hundreds of ethnic Indians were attacked unprovoked and 5 killed.

All 3 groups are sanctioned to perpetuate racial / religious hatred and fear towards the Non-Malays.

Government budgetary allocations

Government budgetary allocations have largely been slanted towards Malay Muslims in the following areas as a matter of unashamed policy. Various arms of the Government act in support:

1. All Government projects are primarily given to Malay Muslim individuals and organizations. All government procurement requires involvement of or outright Malay equity participation in the supplying organization.
2. All Government contractors have to be licensed by the Finance Ministry before being given any Government projects. The Finance ministry ensures that only Malay contractors are licensed such.
3. Malays have been promoted in the Civil service to assure that the highest policy-making positions will be filled by Malays regardless of objective performance standards. Almost all Secretaries-General of ministries and Directors-General of professional departments are Malays. The same is true of their deputies. And it cannot escape notice that virtually all senior officials in public universities, from school deans upwards to Chancellors are Malays.
4. **Thus, the Malay to non-Malay recruitment ratio of 4:1 for the elite Malayan civil service (MCS) was instituted³, which ensured that “at least 80 per cent of the service will be filled by Malays, far above their proportion in the total population”⁴.**
5. **As of June 2005, more than 85% of the Civil Servants were Malay⁵:**
This was an increase of close to 25% from 1971.

	Malay	Chinese	Indian	Others
1971	60.80%	20.20%	17.40%	1.60%
Jun-05	77.04%	9.37%	5.12%	8.47%

6. Development programs such as Entrepreneur, Technoprenuer development programs, Land development Programs, Small and Medium Industry development Programs, Financial Aid programs, Womb to Tomb business development programs are almost entirely for the Malays.

The FELDA Scheme – Federal Land development Authority

What started as a modest land development agency in 1956 today has become a giant scheme which manages an area of 2 million acres and encompasses more than 530,000 people. FELDA's main role is to open up new land areas for agriculture and relocation of low income and landless rural inhabitants. This program has become an almost entirely Malay Muslim development program. There is a systematic and wholesale exclusion of Non-Malays from this program. Indian plantation workers who were being actively displaced at the time of the growth of this FELDA scheme in the 1970s and 1980s were not considered part of the target group, because they were not categorized as being from the rural community. This was convenient way to exclude. An estimated 800,000 Indian plantation workers have been displaced from plantations without any alternative programs/compensation.

FELDA, FELCRA, PERDA, KEDA, KETENGAH, KESEDAR, KEJORA and a host of other development agencies use procedural techniques of one form or another such as this to entirely exclude the deserving Indians and other non-Malays from any form of participation in these schemes. What is guaranteed in the constitution is made totally inconsequential by the introduction of arbitrary rules by the administration. This is the subtlety inherent in the uniquely Malaysian form of racism.

This is very clearly basic UMNO policy. It helps it take care of its core constituency, the rural Malays. It becomes a platform for patronage that has been developed and honed and fine tuned over the last 50 plus years, and provides the necessary opportunities for accumulation of wealth for the growing appetites of the Malay elites. The 2009 results of FELDA show a total turnover of RM 11.8 Billion. The profits before tax alone are RM804 million⁶. See the scale of things – enormous.

Take this one initiative by FELDA - a RM 120 million residential school for FELDA children - a Maktab Rendah Sains Mara (MRSM) in Trolak, Perak. Compare this with the recent promise of an allocation of RM100 million by the Prime Minister for 523 Tamil schools in the country, for which there is no evidence of disbursement anyway. There are 42 MRSM schools like the one above in the country.

Felda has launched a new generation skills training program and has put out over 24,000 Malay Muslim graduates since 2005. They have a budget of RM50 million annually for this program.

In 1980, the World Bank raised concerns over the ethnic bias in FELDA settler selection by pointing out that if the government was serious “about increasing the non-Malay share in agriculture, some increase in the non-Malay share of settlers was warranted.” It was especially concerned about Indian plantation workers who faced increasing under-employment following the estates’ conversion from rubber to oil palm and who in normal circumstances “would be good candidates for land development schemes.”⁷

The World Bank’s concerns went unheeded by UMNO.

The TEKUN Program

The Tekun Nasional scheme is a scheme to provide micro credit and to develop entrepreneurs. The specific objectives of the scheme are:

- Provide business funding which is easily available and quickly disbursed.
- Provide information on entrepreneurs and business opportunities
- Offer training and support to entrepreneurs participating in Tekun programs.
- Create a community of Tekun entrepreneurs who will form a hard driving, innovative and progressive business network.
- Nurture a culture of entrepreneurship within the Malaysian people.
- Encourage and foster a culture of prudence in the Tekun community

To give you an idea of the scale of discrimination:

This was statement from Datuk Abdul Rahman Hassan, the Managing Director of Tekun ' From 1998 till 31 December 2007 , TEKUN Nasional has disbursed loans totaling RM 772.0 million to 139,000 entrepreneurs. For the year 2008 alone TEKUN Nasional has provided RM 182 million as loans to 19,000 entrepreneurs.⁷ That is close to RM1 Billion -not to mention almost all those loans went to Malay Muslim entrepreneurs. Participation in the Tekun program of Indians is miniscule - a total of 93 Indian entrepreneurs received loans amounting to RM761,000 on July 24, 2009 in a ceremony.⁹ That is less than 0.1% of that disbursed to the Malay Muslim entrepreneurs.

The collusion of the various arms of the Government to keep dissent in check

Various arms of the Government work in tandem to operationalize the racist agenda of the Government Policies

Some of the key ones are :

1. Government Linked Companies
2. Government Investment Companies
3. Economic Planning Unit
4. The Federal Cabinet of Ministers
5. The various Ministries
6. The Royal Malaysian Police
7. The Attorney general's Office
8. The Judiciary
9. The Government Administrative Services
10. The Government owned Banks
11. The Government controlled media

The repressive laws that facilitate the development of racism

The Government has used suppressive laws like the Internal Security Act, the Official Secrets Act, Printing Presses and Publications Act, the Seditious Act during this period to implement these terribly racially lopsided development plans while allowing the racist system to grow. This very clearly reminds one of similar laws employed by Apartheid South Africa.

The ISA took effect on August 1 1960 with the solemn promise that it would only be used “solely against communists. Tun Abdul Razak Hussein the former Prime Minister who had tabled the Bill had also assured the House during heated debates that the law was for two purposes — to counter subversion and to enable measures to be taken to counter terrorism. Despite their promises the Alliance government and its successor BN have over the years been using the oppressive act for political reasons — to silence dissenting voices that criticized the government and to prevent the people from exercising their right to free speech. Since the ISA was enacted in 1960 some 10 670 people have experienced what it is like to be imprisoned on mere suspicion without given the right to a trial.

Just in September 2011 The Prime minister who has been under tremendous pressure on these counts announced that the ISA would be repealed. This has however to be passed in Parliament before it will take effect.

2. Treatment by the Malaysian Police

Given the need to maintain a racist regime, the Police have become a primary instrument of control for the majority Malay party in Government –UMNO. Police violence, abuse of power and human rights abuses occur very regularly. Cases of death in custody, partial handling of criminal disturbances, violent dispersal of peaceful protestors and other form of human rights violation continue. This has created a climate of impunity and normalization of violence, abuse of power and violation of human rights in Malaysia.

The socio-economic marginalization of the Indian minority has resulted in the formation of a significant underclass among the Indians. The numbers of Indians involved in crime has risen alarmingly.

The number of individuals detained just under preventive laws for crime of violence at the Simpang Renggam Rehabilitation Centre in Johor in 2003 is 702 of which 316 are Indians compared to 111 Chinese and 111 Malays.¹⁰ This is about half of total inmates. For a population which makes up less than 10% of the total population the percentage of Indian inmates is disproportionately high. More than 45% of the crimes reported in Malaysia are committed by Indians¹⁰.

This fact coupled with the impunity of the police force has resulted in the brutal treatment of Indians in custody. This convergence of unbridled police power, a regime based on racism and the politically and economically weak Indian community has resulted in some of of the worst forms of Human Rights violations in Malaysia.

Death in custody

Further the treatment meted out to Indians remanded by the police or in its unofficial shoot to kill policy clearly indicates a systematic institutional intent to physically hurt, and to psychologically damage and is invariably harsh. The testimony to that are the rampant cases of death of Indian suspects beaten to death.

Occasionally we get a glimpse of this in the public. Kugan's death while in custody on the 20th of Jan 2009 is a very well known example of Police Brutality against Indian crime suspects. In the October 2003 parliamentary sitting, Deputy Home Minister Zainal Abidin Zin revealed the numbers of alleged criminals shot to death by the police. (This is a rare occasion when the government Minister comes out with some statistics like this)

- 2000 - 33 deaths;
- 2001 - 14 deaths;
- 2002 - 54 deaths;
- 2003 to date - 27 deaths¹²

In another written parliamentary reply to Michael Jeyakumar Devaraj (PSM-Sungai Siput) on 28 June 2010, Home Minister Hishammuddin revealed that police shot dead 82 suspects in 2008 and 88 in 2009.

We know from newspaper reports alone that there were 11 police caused killings in 2009 and 10 out of those were Indians. Most of those killed thus are of Indian origin. Reliable statistics are difficult to come by to corroborate. But from samples available this is what we get.

DATA ABOUT SOME OF THE SUSPECTED CRIMINALS KILLED BY THE POLICE IN 2003. 60% OF THE SAMPLE.(Indian victims in blue)

Name	Age	Date of death	Place of detention
Syed Fadzil Syed Ibrahim	21	9 January 2003	Jasin Police Station, Melaka
Hasrizal Hamzah	27	9 February 2003	Kajang Police Station, Selangor
Prakash Moses	23	18 February 2003	Hang Tuah Police Station, Kuala Lumpur
Kannan Kanthan	45	1 March 2003	Batu Pahat Police Station, Johor
Ahmad Salleh	42	7 June 2003	Kuala Krai Police Station, Kelantan
Ulaganathan Muniandy 19	19	21 July 2003	Kajang Police Station, Selangor
Ho Kwai See	28	5 August 2003	Sungai Buloh Prison, Kota Damansara Police Station (died in prison)
Ravichandran Ramayah	38	21 October 2003	Penang Prison, North East Police Station
Veerasamy Gopal	52	28 November 2003	Ampang Police Station, Selangor
L. Yoges Rao	22	11 December 2003	Sitiawan Police Station, Perak.

Here is an example of a typical occurrence quoted from the Suaram Report of 2003

V. Viknes, 19-year-old school boy was fatally gunned down by the police in October 2002. Viknes parents disputed the police's claim that their son was a wanted criminal and "marksman and weapons expert."

The account presented by police was disputed by Viknes's family, who claimed that the youth was nothing more than an innocent schoolboy who still lives with his family. They raised suspicion of foul play. Where are the witnesses? Where are the police cars that should be riddled with shots? Where are the wounded policemen?" asked his distraught father G. Vesvanathan at a press conference. He also accused Federal Criminal Investigation Department director Salleh Mat Som of being a "liar" for claiming that his son was a "marksman and weapons expert." Viknes's uncle, Silva Govindasamy, questioned the police's claim that his nephew was involved in about 20 criminal cases.

"If he was a suspect in so many cases, why didn't the police approach the school or family? The boy has never been arrested, never harassed, he doesn't even have a (criminal) record!" The family also alleged that the police instructed the Tengku Ampuan Rahimah Hospital in Klang not to conduct a second post-mortem on Viknes's body nor cooperate with them.

Selective enforcement of the law and intervention by the Police

On the 28th of August 2009 a protest march was held by a group of Malay Muslims in the township of Petaling Jaya against the location of a Hindu temple in the vicinity of their residence. The protestors carried a severed cow's head to rub salt into their overt disregard for the sensitivity of the Indian Hindus. Ten days after the incident the Police took no action against the Malay Muslim offenders. Yet 16 Indian Hindus were arrested for holding a peaceful candle light march at Dataran Merdeka to protest the desecration of a sacred Hindu symbol.

For 15 days from the 8th of March 2001 to the 23rd of March 2001 killings and slashing of Indians in Kampung Medan were allowed to occur under the very nose of the Police.

5 Indians were killed and more than 100 Indians were seriously wounded in these racially motivated criminal acts. The Police were "unable to control the situation" in spite of the fact that all these incidents happened within an area of 10 sq. kilometers and a Police cordon of the area. In spite of loud calls by several members of civil society there has been no impartial inquiry into this incident nor any move to bring to book the perpetrators of this crime..

3. Treatment in and by the State Administration

More than 77% of the Government administration members are of Malay ethnicity. About 20% the Indian members and about 60% of the Chinese members of the Government administration are teachers in the Government schools. If they are excluded from the numbers employed by the Government administration, the picture that emerges is about an overall participation of **85% Malays in the administration**. Also the proportion of Malays increases as we go higher in the ranks of the administration clearly indicating the control of the Government apparatus by the Malays.

The Ethnic Composition of the Malaysian Civil Service: June 2005

Ethnic Group	Top Management Group		Management and Professional Group		Support Group		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Malay	1,370	83.95	155,871	81.65	535,495	75.77	692,736	77.03
Chinese	151	9.25	17,896	9.37	66,248	9.37	84,295	9.37
Indian	83	5.08	9,777	5.12	36,194	5.12	46,054	5.12
Other bumiputra	23	1.41	6,156	3.22	63,649	9.01	69,828	7.77
Others	5	0.31	1,203	0.63	5,129	0.73	6,337	0.70
Total	1,632	100	190,903	100	706,715	100	899,250	100

Source: Government of Malaysia, Dec 2005

In the State of Johor alone with a total population of almost 3.17 million made up of 54 percent Malays, 33 percent Chinese and 6 percent Indians the ethnic composition of the Civil service is¹³ :

Malays	Chinese	Indians	Others
8,244 (98.47%)	10 (0.12%)	116 (1.39%)	2 (0.02%)

The large Malay representation of a bloated administration in addition creates a substantial basis for race based benefits to be given out to the Malays in the cover of the generous benefit and welfare and economic programs of the Government – Government Medical and Health programs single out administration employees for favored treatment, there are special treatment in various other areas as scholarships, admissions into higher educational programs, pension schemes, discounted travel fares for retired administration employees, discounted hotel charges in government run hotels and so on. This yet another subtle way by which the uniquely Malaysian racism operates.

The racist indoctrination program Biro Tata Negara BTN. (National Civics Bureau)

The Malay employees of the administration go through special programs of training called Biro Tata Negara where they are all educated on how to keep

“the wealth of the family within the family” in short how to operationalise the racist policies of the Government. This is a much criticized activity, but the Government continues with impunity as it is a key approach in recreating that racist bureaucracy.

A central feature of the Malaysian system is also the categorization into the racial categories of Malays, Chinese, Indians and Others from birth to death. Everywhere one goes, one has to declare Bangsa(race), U gama (religion) – at birth, at school registration, in the applications for ID cards, driver’s licence, bank accounts, passports, marriages, deaths and burials and in many more situations in dealing with the government agencies and Government linked agencies and businesses. This identification by race becomes the determining criteria in the award of any benefits from these institutions.

One interesting point to note about Government statistics is that even though ethnicity data is picked up in almost all the data collection, the reports from the Governments seldom provides the ethnic categorization of the data to the public, unless it is to justify some Government position. This will be immediately evident if one just visits the Malaysian government statistics department’s website www.statistics.gov.my

Access to Government aid programs, information of all kinds relating to the many development programs, information of government awards, contracts, special opportunities are all made easy for majority Malays but kept well out of reach for the Non-Malay minorities by this ethnic identification and the wall of a monolithic Malay Administration. This is aggravated for the Indian minority by the fact that a sizeable portion of the Indian populace is semi-literate or illiterate, which makes them ignorant of their rights, the laws or the procedures.

There are an estimated 150,000 – 200,000 Indian children who are stateless due to the States’ reluctance to recognize them as Malaysians. This is operationalized by the racist state bureaucracy. As result they are not admitted in Schools, enjoy health care and other benefits a child enjoys.

4. Treatment by the Judicial System of the State

Alongside the racially lopsided developments on the economic front, the Islamists have been steadily gaining influence over the judicial system in the 1990s. (The Federal Constitution was amended in 1988 to give recognition to Sharia Laws). This is visible in the steady ascendancy of the Sharia Legal system over the Civil Legal System which is enshrined in the Malaysian Federal Constitution. The Syaria courts are clearly inferior to the Civil Courts in the Federal Constitution – but in practice the Judges in the Civil courts do not want to rule on matters involving non-Muslims who are entangled between the two systems.

It is estimated more than 90% of the judiciary is filled with Malay-Muslim Judges.

5. Treatment by the Media

The Mainstream media blocks out, demonizes and distorts information of any organization that speaks out against this racist system in a coordinated fashion. The Government uses the Printing Presses and Publications Act and limiting ownership to known allies to control the Media to do this.

The Malay pro-Government Media is given a free hand to speak for the racist policies of the government. The leading Malay language newspaper, Utusan Melayu, is as described by the Opposition Leader Lim Kit Siang, “provides a daily staple of falsehoods that stoke racial hatred”. The other leading media group –Prima Media, is firmly in the control of the Malay elite and whose Chairman of the Board is a former chief editor of Utusan Malaysia. It owns 4 TV stations, 3 major newspapers, 3 Radio stations, and a slew of other related companies.

Reporting on minority issues and problems are either selectively done or is slanted or is just plainly blacked out. There is a clear racist slant and scheme to the projections. The slant is that the Malay elite is the Tuan (Master) and the Non-Malay is always the recipient of his largesse.

6. Treatment in the Education system.

Article 12 of the Federal Constitution guarantees that there shall be no discrimination against any citizen on grounds of religion, race, descent, or place of birth.

The racial bias in the educational system is the area where racism is most blatant – all the way from pre-school and primary education up to Tertiary levels. One of the major features of the colonial rule was the identification of race with vocation. Separate communities developed around their places of work. The Malays in the villages, the Indians largely in the plantations and the Chinese largely in the urban areas. This served British colonial rule very well, keeping the people apart while extracting the most out of them in the service of British capital.

What has however happened in the post colonial period is the institutionalization of this communal division into a bifurcation in the education system all the way from Primary to the Tertiary level.

The Government budgetary allocations worth billions for education went largely into promoting education for the Malays, at the expense of allocations for the Chinese, the Indians and the rest. At the Primary school level, we have a fully aided stream and a partially aided stream. The partially aided schools are termed such as they essentially only have the salaries of the teachers paid. All other expenses have to be self-funded by the schools.

Primary Schools

For the Chinese community they, saw an opportunity in this and went ahead with community financing, built up an education system that essentially runs without establishment interference. For the Indian community it is working out to be a disaster as this has resulted in the crumbling of the foundation for the future of the Indian child. Because of the economic position of the Indian community, the partially aided schools are under-funded, under-resourced and in the process produces under achieving children. A national study done in 1973 by the Government concluded that these children from the plantation environment were underachievers and early leavers. This was the time the New Economic Policy was being implemented and the results of the study were ignored because of the racially slanted imperatives of the Malay elite. And so it remains. 371 out of 523 Tamil schools are partially aided. Many of these schools are no more than where the British had left them off at. Half the Indian children go to such schools. In spite of the chronic nature of the problem and the deleterious effects it is having on the Indian community, the Government continues to ignore this condition .

Secondary Schools

There are 42 fully residential elite Maktab Rendah Sains Mara (MRSM) (Mara junior Science College) (NST 5/4/08) with 12,440 places also in the fully residential schools (BH 21/11/09 at page 7). These schools have been almost exclusively for Malay Muslim students. Most of the non-Malay school pupils who easily qualify for entrance to these schools are summarily denied admissions. A few get in as a token. Each of the MRSM schools cost around RM100 million to build.

Indians and non-Malays are also almost 100% excluded in other elite schools like the Royal Military College, Aminuddin Baki Institution, Matriculation courses and the Malay College Kuala Kangsar.

80% Indian pupils had (been forced) stopped schooling after 5th Form (O' Levels) because of performance and because of their socio-economic status¹⁴.

Pre-University

There are two streams for entry into the Public Universities. One is through the Matriculation 12 month program specifically tailored for the Malay students and the other is through the 18 month and much more stringent STPM program. Of course the matriculation is especially reserved for the Malays. University entrance criteria are based on meritocracy the country is told. SO 4As in one is equated to 4 As in the other. But the awful truth of this is that 4Cs in one will probably equal 4As in the other. Again this is the working of the unique Malaysian racist system. What is guaranteed in the constitution is made totally inconsequential by the introduction of arbitrary methods, mechanisms and criteria.

Tertiary Education

Of course coming out of matriculation, will be **“many more better performing students”** who not only will be on the top of the lists for the Public universities, but they will also very likely get the scholarships, the courses of their choice and the loans for study.

Admissions into public Universities is more than 80% reserved for the Malays Malay Muslims. One university with a student population of 170,000 in 2011(UiTM) is for Malay Muslims only. The other 19 public Universities with about 170,000 enrolments in all have a 60% Malay Muslims students making it 80% for Malay Muslims in all Public Universities. This does not even talk about the composition in the various courses offered.

Only a handful of seats in Medical Faculties of the Malaysian Government Universities are made available to Indians and non-Malays. Exact statistics are not available but it is estimated to be around 5% percent of the places. An estimated 90% of deserving Indian and non Malay students are denied places in the 20 Government run Universities in Malaysia.

There are 62,000 diploma places and 60,000 degree places for 2010 at 27 Polytechnics in Malaysia¹⁵. Our estimate is a very small number of these places will be allocated for non Malay students no matter their qualifications. Most of the places are allocated to Malay-Muslim students.

8,132 Phd graduates produced from the 20 government Universities¹⁶. Our estimate is again a very small number will be Indians and non-Malays.

There are 163,779 students studying at the 19 other Public Universities nationwide at an annual expenditure cost of RM 2.6 Billion¹⁷. Our estimate is a mere 5 % of this expenditure will accrue to non-Malay students.

The former prime Minister, the architect of this racist system Mahathir decided to restrict the number of students studying medicine in various universities in Russia after a visit in 2003. Most of the Malaysians there were from Indian families, many of whom had scraped the bottom of the barrel to put their children through a medical education. There just were not enough places for them In Malaysian universities because of the Governments discriminatory practices, Russia, Romania, Indonesia provided affordable alternatives. But the Government decided to reduce those alternatives. Several of the Universities were derecognized by the Malaysian Government from 2006 onwards despite there being a shortage of doctors in Malaysia by 50%¹⁸.

RM 2.8 Billion is allocated for the 2010 National Budget for students assistance¹⁹ scholarships but only an estimated 5% may reach the non-Malay students. Most of the funds go for scholarships to Malay Muslim Students.

1,266,671 students have benefited from the government PTPTN (Government Higher Education Loan Fund) study loans till 2009. 147,441 such loans were approved at RM 17.0 Billion²⁰

But thousands of private Indian medical students studying in Russia, Ukraine, Romania, India and Indonesia have been denied these loans. Similarly Non-Malay students studying at private Universities and Institutions of Higher Learning have also been denied these study loans.

Ms Syamala Devi

Ms M Syamala Devi's a 28-year-old final year medical student has returned home from Romania because she cannot afford to continue her education. She had taken a RM20,000 loan to finance the final two years of her study for which she now has to pay RM2,000 in interest every month. She is a student with the University of Medical Pharmacy of GRT Popa in Romania said she needs another RM40,000 to complete her degree. Syamala said after completing her STPM examination, she had applied in vain for a place to do medicine in the 20 local universities. She has also applied for scores of scholarships and education loans, including the Public Service Department (PSD) scholarship and Higher Education Loan Fund (PTPTN), but was rejected in each of these applications..

Contrast that with the following scheme for Malay Muslim students going abroad to do Medicine. Kolej Teknologi Timur in Sepang, which has graduated its 4th batch of students on what is called the Kursus Intensif Timur Tengah (Middle East Intensive Course). This is a 3 month program preparing MARA sponsored students selected to do medicine in the Alexandria University in Cairo. This is a 100pct Malay Muslim program and it is 100pct funded by the Government.

All allocation of the National resource has been slanted in favor of the majority ethnic group and away from minorities as a matter of overt policy.

FREEDOM OF RELIGION

Article 11 of the Federal Constitution provides for religious freedom, which includes the right to establish and maintain places of worships and own and acquire property.

Article 12(2) among others provides that no person shall be forced to receive instruction in or to take part in any ceremony of act of worship of a religion other than his own.

Article 12(4) provides his parent or guardian shall decide the religion of a person below the age of 18 years.

The constitution provides for freedom of religion; however, the constitution and the government placed restrictions on this right. The constitution defines all ethnic Malays as Muslims at birth and stipulates that Islam is the "religion of the Federation."

In 1988 Article 121 of The Federal Constitution was amended to make provisions for the recognition of Islamic Syaria Courts/Laws. It was intended to adjudicate upon Muslim marriage and personal law. However this provision has

been manipulated by the authorities to implement and impose syariah Laws on non-Muslims. The Judiciary abdicated its powers to the inferior Syariah courts whenever there is a dispute between a Muslim and non-Muslim.

The government significantly restricted the practice of Islamic beliefs other than Sunni Islam. Article 11 of the constitution states, "Every person has the right to profess and practice his religion," but it also gives state and federal governments the power to "control or restrict the propagation of any religious doctrine or belief among persons professing the religion of Islam."

Civil courts continued to concede jurisdiction to Shari'a courts on cases concerning conversion from Islam and certain areas of family law involving disputes between Muslims and non-Muslims.

The syariah laws, does not permit Muslims, born into Islam, to convert to another religion. Shari'a courts does not allow renunciation from the Islamic faith.

The law strictly prohibits non-Muslims from proselytizing Muslims; proselytizing of non-Muslims faced no legal obstacles.

Forced religious conversions and religious intolerance are evidence of creeping Islamization in Malaysia. Whenever there is a conflict between Muslim and non-Muslims, the tendency is for Muslim Laws to prevail over the non-Muslim issues regardless of the merits of the case. This can be seen in the several cases of non-Muslims who have found themselves or their children forcibly converted and are not able to reverse the process. This is an area where clearly minority rights are being deliberately overdrawn by the majority Malay Muslims over minority non-Muslims.

The decision of the Court of Appeal on 21st August 2010 in the case of Maniam Moorthy is a disturbing trend in the role of the Judiciary which has abdicated its powers to the inferior Shariah Courts which was meant to serve the Muslims only on matters (personal) pertaining to marriage, divorce, property distribution etc.

Lina Joy, 42, who was born to a Malay Muslim couple, became a Christian when she was 26. She lost her final round of appeal when the Federal Court dismissed her appeal on 30th May 2007 against a ruling that the National Registration Department was right not to allow her to remove the word "Islam" from her identity card.

This decision by the apex court removed an individual's constitutional freedom to choose one's religion as well the right to private married life, especially for those who want to renounce Islam and for people who convert to Islam but later want to revert to their former religion.

In August 2010 The newspaper of the Catholic Church in Malaysia, The Herald, filed a legal suit at following warnings that its permit could be revoked if it did not cease use of the word "Allah" in the Malay language section of its newspaper. The paper has a circulation of around 12,000 and writes in four languages.

Several Malaysian churches have been attacked and fire bombed, leaving at least one badly damaged, in an escalating dispute over the use of the word "Allah" by Christians. Muslim groups with the tacit support of the government held protests and threatened violence publicly for an alleged act of challenging the superiority of Islam.

A religious edict (fatwa) by a Muslim cleric in the state of Sabah caused the Sabah state government to cancel the construction of a 108 feet Goddess of Sea Mazu statue by the Taoist in 2008. The construction was approved by the Local authorities but cancelled by State Government on grounds it would offend the Muslims.

In August 2011 The Selangor Religious Department raided a Church dinner function organised by an NGO on allegation of Christian proselytizing campaign.

The Selangor Ruler who heads the State Islamic faith conveniently relied upon the biased investigations conducted by the raiding authority instead of forming an independent investigation committee and warned the Christians not to influence and distort the understanding and belief of Muslims towards Islam.

According to the government, it allocated 428 million ringgit (approximately \$125.9 million) to build Islamic places of worship and 8.1 million ringgit (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority religions' places of worship between 2005 and the end of 2008.

Examples of forced conversion:

Rani, 56, has been struggling for the past thirty years to get her Muslim name and religious status changed to Hindu. Rani was only a sixteen-day-old baby when she was given away by her Muslim biological mother to a Hindu neighbour family due to extreme poverty. Rani's Hindu adopted father brought her up as a Hindu. Her marriage registration application was rejected and her Hindu husband was forcefully taken away, circumcised and converted.

He agreed to the conversion after he was threatened with jail sentence if he refused to convert to Islam. As a consequence, Rani's children as well as her grandchildren have all been denied their Birth Certificates even after thirty years of struggling as they are all practising Hinduism. In an interview with HRP, Rani's family threatened to commit suicide.

A mother of two, **S Banggarma** was unknowingly converted to Islam by state religious authorities as a child at the age of 7 while at a welfare home in Penang against the provisions of Article 12(4) of the Federal Constitution. She discovered this when seeking to register her marriage in 2000.

Due to her Muslim name, she could not register her marriage to Sockalingam, which was conducted according to Hindu rites. She was also unable to register her husband's name as the father in her children's birth certificates. The civil courts will not hear her case and the decision of the Syaria Court is a foregone conclusion

Indira Gandhi's 3 children were converted without her consent and knowledge and her 11 month baby girl abducted by her husband who had converted to Islam just to spite her because of marital problems (see NST 28/4/09 at page 4). The Islamic authorities and the police had refused to secure her baby from her estranged husband despite a High Court Order in favor of applicant. (The star Apr 24 2009).

She would not obtain justice as the highest Federal Court are most likely to rule that the conversion of her children is within the jurisdiction of Syariah Court. It is highly likely her children would soon be removed from her custody and placed with the Islamic authorities.

Raimah Bibi is a practicing Hindu. She was once adopted by a Indian-Muslim family when she was a child. Her National Identity card had never indicated that she was a Muslim until when she applied for her new Identity card when her name was changed to Rahimah Bibi bt Noordin and identified as a Muslim. On 2nd April, 2007, seven officers from JAIS arrested her and told her husband that his wife of 21 years was a Muslim and that she and the six children must be placed in a rehabilitation centre. She is still forcibly separated from her family by order of the Islamic Shariah Court.

State Sanctioned Destruction of Hindu Places of Worship

Throughout the years since Malaysian independence in 1957, the government has been disregarding of the systematic destruction of Hindu places of worship, which previously stood on estates and state owned estates and land. An estimate of about 10,000 Hindu places of worship have been demolished.

The government justifies the demolition of the places of worship on the grounds that they were illegally constructed or were occupying government land.

- Most of the places of worship and graveyards/crematoriums demolished by the state were built during the colonial era and therefore existed up to 200 years ago.
- The Indian migrant workers transported under the indentured labour system were assigned to clear large acres of thick jungle areas and prepare land to plant rubber trees; these lands later referred to as rubber plantation estates. The workers who were encouraged by their colonial employers to reside on the plantations were given permission to build their places of worship on the plantation land, which survives to date.
- Upon independence, the government of Malaysia failed to observe its responsibilities under the Federal Constitution specified above and issue land rights to the Hindu places of worships, whereas existing mosques built before independence were granted land titles to legitimize them
- A study by Centre for Public Policy studies shows that since the 1970's whilst in the process of acquiring thousands of plantation estates under the Land Acquisition Act for development purpose the government has been directly responsible for displacing 300,000 ethnic Indians from the plantations. A further 300,000 were at risk in year 2000. Displacement came with destruction of places of worship without relocation program on the basis that temples sited on government land were without permit

- The rights of the poor Indians are seldom acknowledged or respected in those situations and the State Governments tend to use their full might of State power and the media to manipulate public opinion, corruption and 'Mandorism' to evict the marginalized Indians who, unaware of their entitlement, are denied their legal ownership of land in majority of cases. Their historical occupation of the land in the many cases appears not to count for much and any offer of compensation seldom matches their loss.
- Although we are without an exact figure on the number of places of worship destroyed since 1957, witness statements available from community leaders, estate workers, temple committees, union leaders and residents clearly demonstrate that the number of such places destroyed by the state runs into thousands.

HRF, Malaysia estimates that a high proportion of the existing number of temples estimated at 10,000 currently based on plantation land risk being demolished due to the government's unwillingness to grant land rights and to legitimize their existence.

Conclusion

The Malaysian minorities long to live with dignity and freedom but are denied dignity and freedom by a racist regime that has developed over the last 50 years in the name of affirmative action for the majority. The endless extensions of the affirmative action policies have now led to serious Human Rights violations of the minorities in the country. This is inconsistent with developments around the world and with the aspirations of the minorities of Malaysia. It is time for the international community to hold the Malaysian government accountable for this performance. The world has to wake up to these developments in Malaysia, for the future of all of this is being told many times over now, in the many tragedies that are happening around the world even as we pen this report.

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