



UMAA
ADVOCACY

THE SITUATION IN
MALAYSIA

SECURITY REPORT

THE SITUATION IN MALAYSIA

JULY 2014

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EXECUTIVE SUMMARY

The following study examines the country of Malaysia and its long history of Human Rights violations shedding light on police discrimination, unlawful detentions, and the control of media. A special focus is given to the deliberate targeting of certain minorities or religions, such as the Shia sect of Islam. Short historical, economic and demographical accounts are given as a part of the background information on Malaysia. This study, like the Human Rights reports on Malaysia, the United Nations watch report, and various other NGO reports, is trying to bring the atrocities against the Malaysian people by their government to light. The hope remains that some form of action will be taken to remedy the injustices occurring in Malaysia, and that minorities will have the ability to practice their beliefs without fear of persecution.

EXECUTIVE SUMMARY

BACKGROUND

GOVERNMENT

One of South-East Asia's strongest economies, Malaysia holds a prominent position in regional politics. Classified as a constitutional monarchy, Malaysia is headed by The Yang di-Pertuan Agong (YDPA) and its government by the Prime Minister. Chosen every five years from the hereditary rulers of the 9 Malay states, the YDPA holds the power to grant pardons and exercise his power with or without the advice of the prime minister and holds reign over the armed forces as their Supreme Commander. Executive power is vested in the federal parliament and the 13 state assemblies. The parliament, being bicameral, consists of the Upper House (Dewan Negara/Senate) and the Lower House (Dewan Rakyat/House of Representatives). Although the constitution stipulates that the three branches of government (Legislative, Executive and Judicial) are to be maintained separately, the executive holds influence over the judicial branch. Although the official religion of Malaysia is Islam, it still maintains freedom of religion constitutionally. Abdul Halim Mu'adzam Shah and Najib Tun Razak hold the current YDPA and PM positions, respectively.

HISTORY

Originally ruled by the maharajas of the trade-based Srivijaya Empire during the 13th century, Malay as it was called then, was an important trade center. Especially important was the port of Malacca, through which Arab and Indian trades slowly introduced the Malay elite to Islam as early as the 15th century. European colonialism laid claim to Malacca in 1511, first through the Portuguese and then through Britain's Dutch East India Company. Britain used Malaya to strengthen economic ties with China during the 18th century. A big miner of gold and tin at the time, Malaya brought an influx of Arab, Chinese and Indian immigrants into the region, who have remained a part of modern day multiethnic Malaysia. In 1824, the Anglo-Dutch Treaty split Malaya into modern day Indonesia controlled by the Netherland's East Indies and British controlled Malaya. During World War II, Japan bombed the British out of Singapore and Kota Bharu, leaving Malay open and exposed to Japanese control. During their reign, Japan barred exports, which led to a rise in nationalism and ethnic tensions. Japan only made matters worse with its *Sook Ching*, or ethnic cleansing, of the Chinese, leading to the deaths of 80,000 ethnic Chinese. After the bombing of Hiroshima and Nagasaki in 1945, Britain regained control of Malay. Around the same time, Onn Bin Jaafar established the United Malays National Organization (UMNO), demanding independence from Britain and for a state dominated by ethnic Malay. During the 1940's and 60's insurgent Chinese communist guerrillas maintained control over specific regions in Malay and caused an uprising. During what became known as the Malayan Emergency, British and commonwealth forces suppressed the uprising.

Finally, in 1957 the Federation of Malaya gained independence from Britain. Soon after, British colonies of Sabah, Sarawak and Singapore join the Federation, which was renamed, at that

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point, the Federation of Malaysia. In 1965, Singapore was expelled from the federation over political and ethnic differences. Malaysia chose the 1857 established trading post of Kuala Lumpur as its capital.¹

DEMOGRAPHICS

Occupying two distinct regions in Southeast Asia, Malaysia borders both Indonesia and Brunei in the eastern region (East Malaysia), and Thailand, Indonesia and Singapore in the western region (Peninsular Malaysia). Peninsular Malaysia is located south of the Thailand border, lying east of Indonesia and north of Singapore. The two regions are divided by the South China Sea.

Considered the 42nd most populous country in the world,² Malaysia is home to 29.24 million people.³ Due to its long and multi-cultured history, Malaysia is a hotbed of ethnic tension. Citizenship is only given to those of Malay ancestry, or those who have lived in Malay for a long period of time (10 to 12 years), practice the customs of Malay, and speak Malaysian on a regular basis.

Malaysia's demographics are split into four main categories. The Bumiputera comprise 67.4% of the total population, the Chinese occupy 24.6% of the total population and Indians occupy 7.3% of the total population. The remaining .7% is a mixture of different ethnicities. Of the total population, 91.8% are citizens while the remaining 8.2% are not.

Of the predominantly Muslim population, 75% associate with the *Sunni* sect of the religion, while most others prefer to call themselves "Just Muslims" (not associating with any particular sect) or are split between Shia, Arqam's, Ahmadies and Quranists.⁴ The second largest religion in Malaysia is Buddhism, practiced by 20% of the total population. 9% and 6% of the population practice Christianity and Hinduism, respectively, while the remaining population ascribe to a variety of other religions or hold no religious belief.

The main language of the country is Malaysian, though English is still used in most business and governmental settings. The country is home to 137 living languages spoken throughout including a large portion of ethnic Chinese speaking in the different dialects of Chinese.

ECONOMICS

Having always been an important economic center, Malaysia today is considered an upper-middle income economy with the potential of a high-income economy. Malaysia between the years of 1985 and 1995 had an annual economic growth of 7.3%. Following the Asian financial crisis of 1997, however, that number dropped to a 5.5% growth rate. Over a forty-two year period, starting in the 1970's, Malaysia reduced the percentage of people living below the poverty line from 49.3% to 1.7%. Although a dramatic improvement, there still exists large gaps in income distribution, with an estimated .43 Gini coefficient⁵ of inequality,⁶ compared with the world's largest Gini coefficient, at .63 in South Africa⁷ and places like Japan and the Republic of Korea registering at .31 and .34,⁸ respectively.

Largely a producer of raw materials such as tin and rubber in the 1970's, Malaysia has grown and diversified as an economy. Malaysia is now a leader in the trade and exportation of

electrical appliances, parts, and components as well as palm oil and natural gas. Malaysia's delay in economic growth is largely due to structural problems. As it makes its transition into a more diversified, service-based and high-quality goods economy, improvements in the productivity of the labor force and increased competition will be required.

To achieve this level of change, current Prime Minister Najib has launched the New Economic Model (NEM). NEM's main aim is to move Malaysia into its next phase of economic growth, namely a high-income economy. NEM brings much needed change to Malaysia, things like more freedom in the private sector, a focus on fiscal and environmental responsibility, a demand of greater quality versus high quantity production, an increasingly skilled work force, improving ties with emerging markets (Asia, Middle East, etc.) and conditions conducive towards increased competition, specifically in the private sector.⁹

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HUMAN RIGHTS

Since their independence in 1957, the people of Malaysia have faced an onslaught of injustices and prejudices stemming from ruling parties, government officials, religious authorities and the police. None have seen more injustice than the minorities of Malaysia. Although in current times, PM Najib has often spoken of reform for his people, he has time and again abandoned his promise, making conditions worse or simply not addressing them. This makes the fight for human rights and minority rights absolutely imperative in Malaysia. Ironically, Malaysia is currently seeking a nonpermanent seat on the United Nations council, when it has failed to ratify a majority of the core Human Rights Treaties. The following is a categorical preview into the main problems the Malaysian people face.

ARBITRARY DETENTION

Although Prime Minister Najib vowed to do away with things like the Internal Security Act, including the Emergency Ordinance of 1969, which allowed for long term, sometimes indefinite, detention of so-called criminals without hope of a trial or acquittal, he readily replaced it with the Security Measures Act. The Act is a clever solution to the current outrage over arbitrary detentions, albeit just as bad as the Emergency Ordinance of 1969. Although it reduces the maximum detention without charge period from 60 days to 28 days, the act allows for a broad definition of what a criminal charge is. Justified arrests are now under the discretion of the police; this includes detention and arrest without any charge. The Act also allows prosecutors to hide any source of evidence they wish, along with the option to protect the identity of the witnesses, making cross examinations nearly impossible. Even if someone in detention is acquitted, the law allows for a series of appeals without bail, making it possible to hold a suspect in detention indefinitely.

FREEDOM OF ASSEMBLY

The government of Malaysia has made it extremely difficult for people to exercise their rights to freedom of assembly and peaceful protest. Prior to 2011, any and all protests required preapproved permits. PM Najib quickly replaced this restriction with a new set of restrictions. Any broad moving assembly is not allowed. In fact, even if static protests are conducted, they are not allowed within 50 meters of prohibited sites, making it near impossible to protest in urban settings.¹⁰ The trend of unnecessary and excessive use of force by police continues on even with the new restrictions. In fact, they now have the right to use *any* means necessary at their discretion. According the United Nations Watch, prior to these new restrictions, "...the pursuit and arrest of demonstrators were often accompanied by unprovoked and apparently punitive violent assaults."¹¹ As early as April 28, 2011 police led a four hour onslaught of indiscriminatory tear gassing, water cannoning, beatings and arrests after a small group of the ten-thousand protesters broke through the barricades, even though a majority of people were starting to disburse after being told that the protest had come to an end.¹²

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The police have gone as far as setting prior conditions to protests, such as on January 12th of 2013 in Kuala Lumpur during the Peoples Uprising Rally. Police set 27 conditions for protest and followed up on minor and irrelevant violations, things like placards deemed inappropriate, even though having placards during protest is protected under international law. Even with the new restrictions, if the police deem a protest to be unordinary, such as the protest for indigenous rights and fair elections of February 22nd 2013, they can require a permit of you.

The government of Malaysia, through the Registrar of Societies, limits freedom of association. Any group with seven members or more is required to register at the Registrar of Societies. The registrar has absolute authority over the approval of any organizations, many of which are never approved or are excessively delayed because they oppose or challenge the government.

FREEDOM OF EXPRESSION

The government controls a majority of the media sources in Malaysia. Although the government does not directly own them, they hold excess influence over media sources. The Home Ministry, who holds complete discretion over approvals, must preapprove any new publications. Once granted the license, reapplying is not necessary. Any license can be revoked at any time, again at the discretion of the Home Ministry. It is not uncommon to receive phone calls from the Home Ministry advising the publication on what news should be published. Anyone involved in a publication is subject to arrests and fines if their content is found to be annoying, indecent, or offensive in character according to the Malaysian Communications and Multimedia Act. Furthermore, the Sedition Act gives the government the ultimate power to detain anyone who is believed to be seditious towards the government; anyone who opposes the government is subject to punishment under this act.

The only government entity seemingly fighting for freedom of expression is the Malaysian high court. On several occasions, the high court overruled decisions of the government to ban certain books such as, *Allah, Liberty & Love and Muslim Women and the Challenge of Islamic Extremism*. The authors of some of those books are living outside Malaysia in hopes of escaping persecution; publishers of the books within the country however are facing criminal charges and detention. In most cases where the high court overrules some act of government, there has been an appeal from the attorney general's office, or the home ministry.

POLICE ABUSE

The greatest source of injustice in Malaysia has been the police force. A powerful, unchecked authority, police have resorted to excessive and unnecessary force, unjustified detention of people, and the torture of criminals and non-criminals. According to Human Rights watch, the police are seriously abusing detainees. Along with beating, they burn detainees with lit cigarettes and psychologically torment them. According to Mogan Subramanian, an innocent detainee, "One policeman took a pipe hose and beat under my feet many times until I could not bear the pain. . . . He said I am drug user and said dirty words to me in Malay. After that they let me be for over an hour. Then an Indian constable Ragu without uniform came, and I asked him 'Why am I being beaten? I need to send my kids to school this morning.' He kicked my face. Another constable stepped on both legs and Ragu took the hose pipe and beat my leg ... then

took a gun and put it to my head and ordered me to confess that I am drug addict and stole a lorry.”¹³ (More of these testimonies will be included at the end of the report). These types of torture sessions occur daily, many undocumented since there is no transparency within the police department. In fact, on more than one occasion detainees have died under suspicious circumstances, the facts of which are kept hidden by the police department. Both the Malaysian Human Rights Commission and the Enforcement Agency Integrity Commission are tasked with oversight of police brutality. The police have not paid any attention to these organizations, nor allowed them to do their jobs, not even allowing them access to files. Even if allowed to investigate, it is not within the power of the EAIC to sanction any misconduct. In many cases, the police would justify fatal shooting of suspects through claims of threats posed by the detainee. Although within their right to shoot in cases of personal danger, witness accounts of what really happened contradict police accounts. Even when complaints finally do make it to the police department and are investigated, the colleague or colleagues of the officer being investigated are usually the ones conducting the investigation; leaving the judgment of crimes in the hand of the criminal. According to UN Watch, “Malaysia has yet to ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”¹⁴

REFUGEES, ABUSED WORKERS AND ASYLUM SEEKERS

Malaysian law has outright rejected any rights for refugees and asylum seekers. Refugees are not recognized nor are they allowed to legally work. Furthermore, children of refugees are denied any access to education. Still, refugees make up a majority of over-exploited and under paid workers in Malaysia, working anywhere from 16 to 18 hours a day and making less than 25 cents (US) an hour.¹⁵ These conditions apply even to immigrants of the country. Malaysia rejects basic labor laws for domestic workers, and has failed to improve work conditions. In fact, a large number of workers are deceived about their potential work; once they start they are stuck and are subject to psychological, physical and sexual torment. Asylum seekers are unprotected by Malaysia, even amidst execution calls for an asylum seeker by his home country, Malaysia will not protect the asylum seeker. The Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act are meant to reduce both smuggling of people and trafficking. It fails in providing any meaningful support for the reduction of these two crimes. In fact, when it acquires a group of people who were either trafficked or smuggled into the country, they are subject to inhumane treatment in sub-par governmental shelters until their cases can be processed.

DRUG POLICY

Drug abuse is a large problem in Malaysia. To combat this, the government has enacted the Dangerous Drugs (Special Preventive Measures) Act. Under this act, detention of suspects requires no trial. Users are subject to a minimum of two years in rehab center. The relapse rate after rehab is 70 to 90 percent.¹⁶ People who are drug trafficking are subject to immediate execution, although the amounts of executions are not publically available.

MINORITY REPORT: HUMAN RIGHTS VIOLATIONS

SHIA

Of the predominantly Muslim population, 75% associate with the Sunni sect of the religion, while most other prefer to call themselves “Just Muslims” (not associating with any particular sect) or are split between Shia, Arqam’s, Ahmadies and Quranists.¹⁷ The second largest religion in Malaysia is Buddhism, practiced by 20% of the total population. 9% and 6% of the population practice Christianity and Hinduism, respectively, while the remaining population ascribe to a variety of other religions or hold no religious belief.

Of all the injustices that occur in Malaysian, none are more apparent than what is directed at Shia. Although the persecution of any people for their own personal and religious beliefs in a country that claims freedom of religion seems hardly fair, declaring outright war against a minority is far worse.

On a federal level, an anti-Shia *Fatwa* has been released to curb the spread of the Shia sect, with people in power deciding it is a deviation from the “real” Islam.¹⁸ According to various sources, the government claims intimate knowledge that Shia Islam is spreading in the country and, out of fear of a new ideology, they found it necessary to try to diminish this spread and eliminate it at the root. The government claims that they don’t want traditions that are “anti-Islamic” present within the Shia tradition to spread amongst the common people, including “how bodies after death are dealt with by Shia.”¹⁹ Although it is never said what this method of dealing with the body is, it is apparent that there is very little, if any difference, between how bodies are dealt with by Shias and other sects of Islam.

According to several government officials, the Shia are not considered Muslims, and the only sect of Islam that is true is Ahli Sunnah Wal Jamaah, and Shia are deviants from the faith.²⁰ This is the same sect that reverts back to Al-Azhar (A leading religious seminary located in Egypt and an expert on the varying sects within Sunni Muslims) as a great source of religious authority, when “Both Sunni Islam and Shi’ism were accepted as two branches of Islamic orthodoxy by Al-Azhar cleric Mahmud Shaltut in Cairo in 1959.”²¹ Malaysia itself, in 2004 under the direction of Tun Abdullah Badawi, signed the Amman Message, an initiative by King Abdullah II of Jordan to bridge the gap between all sects of Islam. The Amman Message states “Whosoever is an adherent to one of the four Sunni schools of Islamic jurisprudence (Hanafi, Maliki, Shafi’i and Hanbali), the two Shi’i schools of Islamic jurisprudence (Ja’fari and Zaydi), the Ibadi school of Islamic jurisprudence and the Thahiri school of Islamic jurisprudence, is a Muslim”.²² Still, Shias are being persecuted under the guise of deviants and as a “poison” to society.²³

In the horrific events of March 12th 2014, the Malaysian government arrested close to 114 Shia Muslims, including babies of only four months, for celebrating their faith. A raid that took place in the night took families out of their homes and straight into prison cells.²⁴ The United Malays National Organization along with some government officials have been spear-heading the

MINORITY REPORT: HUMAN RIGHTS VIOLATIONS

attempts to bring down any acceptance of Shia Islam, never taking a humane route in the treatment of Shia Muslims, instead calling them a “poison”²⁵ to the country.²⁶

Even though the Shia are being mistreated and dealt with unjustly, there was a call for an open discussion between Shia’s and Sunni’s so that some sort of resolution may arise in 2013. Home Minister Ahmad Zahid Hamidi outright rejected the proposition, saying, “What is there to discuss? This is a problem between two sects, not about humans”. Hamidi is rejecting the notion that what’s being done to Shias in Malaysia is inhumane or violating any human rights. In fact, he fails to recognize any significant connection between the Shia as an ideology and Shia people, when the inhumanity is being done against the latter. Although it may be that the rift concerns the two sects, the ones suffering are actual human beings.²⁷

The government is going as far as persecuting people for the mere possession of books that mention Shia Islam or Shia teachings.²⁸ Anyone who practices Shia Islam or helps in spreading it is subject to two years in jail and a fine of 30 thousand ringgit. Given the detention policies of the country, it is no surprise if people are held indefinitely through a process of appeals.

OTHER SECTS OF ISLAM

Other sects of Islam are also unable to spread their religion, since the Malaysian government believes in only Ahli Sunnah Wal Jamaah’s views as being the proper views of Islam. Anything that deviates from this is considered a poison and a threat.²⁹

NON-MUSLIM RELIGIONS

Christians have been subject to persecution over the use of the word Allah in their churches and writing. The international community questions whether anyone possesses control of a word.³⁰

POLICE BRUTALITY TESTIMONIES³¹

“One policeman took a pipe hose and beat under my feet many times until I could not bear the pain. . . . He said I am drug user and said dirty words to me in Malay. After that they let me be for over an hour. Then an Indian constable Ragu without uniform came, and I asked him “Why am I being beaten? I need to send my kids to school this morning.” He kicked my face. Another constable stepped on both legs and Ragu took the hose pipe and beat my leg . . . then took a gun and put it to my head and ordered me to confess that I am drug addict and stole a lorry.”

Mogan Subramanian, tortured by police in Taman Jaya, Selangor

“Three police took me outside of the cell. Two were in uniform and another in plainclothes. The one in plainclothes punched me in the stomach several times until I collapsed to the floor. Then another police kicked me from behind. He kicked me in the back very hard repeatedly. He kicked me several times. People in the cell saw this and they shouted at those police, telling them to stop. That, perhaps, saved me. The beating stopped and I was put back in the cell. I was in severe pain. I had bruises all over my chest, stomach, and back.”

Ahmed Amin Draman, tortured by police in Tenah Merah police station, in Kota Bahru, Kelantan

ON EXCESSIVE USE OF FORCE DURING PEACEFUL RALLIES

“It was 7 p.m. . . . I was near Masjid Jamek LRT [Light Rail Transit] on Jalan Tun Perak. I saw the police running after protesters. Their eyes were red. I was standing with a friend when two policemen in blue uniform shouted at me. I said, ‘Apa’ (what?). They charged at me and looked like they were going to attack me. They punched me with their bare fist on my face near my eye. . . . I was badly injured, blood on my face. . . . As I passed by a group of police officers they took turns to beat me. One [officer] beat me with a baton on back. Even in presence of high-ranking officers I was beaten. They have been given license to beat us.”

Haijan Omar, lawyer beaten during Bersih 3.0 rally, April 2012

ON ACCOUNTABILITY FOR THE POLICE

“There is stiff resistance from police when anyone questions them. When we inquire about a case, the police tell us that it’s under investigation and everything is done according to procedures, but we are not given their SOPs [standard operating procedures] or ever told what their investigation found. ‘Trust us,’ they

POLICE BRUTALITY TESTIMONIES

say, 'We are taking care of it.' But people want tangible proof of what action they take which is nowhere to be seen. There are no checks and balances

*Investigator at the Malaysian Human Rights Commission (SUHAKAM), Kuala Lumpur,
May 2012*

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NOTES

ABOUT UMAA-ADVOCACY

We are an organization established to support the rights of Shia Muslims nationally and globally. We do this through influencing government and society so they can act in support and favors of the rights of Shia Muslims nationally and globally. We hope to become the authoritative resource on all that pertains to Shia Muslims rights' nationally and globally, and a single source of events and incidents.

Our Publications

1. The Situation in Bahrain
2. Indonesia: The Plight of Religious Minorities
3. The Situation in Malaysia
4. The Crisis in Iraq
5. A Crisis in Pakistan
6. The Syrian Civil War

For More Information

Visit www.UMAA-Advocacy.com or contact us at info@umaa-advocacy.com



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